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STATUTORY INSTRUMENTS

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**2004 No. 3391**

**The Environmental Information Regulations 2004**

**PART 1**

*Introductory*

**Citation and commencement**

1. These Regulations may be cited as the Environmental Information Regulations 2004 and shall come into force on 1st January 2005.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Freedom of Information Act 2000<sup>(1)</sup>;

“applicant”, in relation to a request for environmental information, means the person who made the request;

“appropriate records authority”, in relation to a transferred public record, has the same meaning as in section 15(5) of the Act;

“the Commissioner” means the Information Commissioner;

[<sup>F1</sup>“the data protection principles” means the principles set out in—

- (a) Article 5(1) of the [<sup>F2</sup>UK GDPR],
- (b) section 34(1) of the Data Protection Act 2018, and
- (c) section 85(1) of that Act;]

[<sup>F1</sup>“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);]

“the Directive” means Council Directive [2003/4/EC](#)<sup>(2)</sup> on public access to environmental information and repealing Council Directive [90/313/EEC](#);

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on—

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

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(1) [2000 c. 36](#).

(2) [OJNo. L 41, 14.2.2003, p.26](#).

- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

F3 ...

“historical record” has the same meaning as in section 62(1) of the Act;

[<sup>F1</sup>“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act);]

“public authority” has the meaning given by paragraph (2);

“public record” has the same meaning as in section 84 of the Act;

“responsible authority”, in relation to a transferred public record, has the same meaning as in section 15(5) of the Act;

“Scottish public authority” means—

- (a) a body referred to in section 80(2) of the Act; and
- (b) insofar as not such a body, a Scottish public authority as defined in section 3 of the Freedom of Information (Scotland) Act 2002(3);

“transferred public record” has the same meaning as in section 15(4) of the Act; and

[<sup>F4</sup>“the UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act);]

“working day” has the same meaning as in section 10(6) of the Act.

(2) Subject to paragraph (3), “public authority” means—

- (a) government departments;
- (b) any other public authority as defined in section 3(1) of the Act, disregarding for this purpose the exceptions in paragraph 6 of Schedule 1 to the Act, but excluding—
  - (i) any body or office-holder listed in Schedule 1 to the Act only in relation to information of a specified description; or
  - (ii) any person designated by Order under section 5 of the Act;
- (c) any other body or other person, that carries out functions of public administration; or
- (d) any other body or other person, that is under the control of a person falling within sub-paragraphs (a), (b) or (c) and—
  - (i) has public responsibilities relating to the environment;
  - (ii) exercises functions of a public nature relating to the environment; or
  - (iii) provides public services relating to the environment.

(3) Except as provided by regulation 12(10) a Scottish public authority is not a “public authority” for the purpose of these Regulations.

[<sup>F5</sup>(4A) In these Regulations, references to [<sup>F6</sup>the UK GDPR and] the Data Protection Act 2018 have effect as if in [<sup>F7</sup>Article 2 of the UK GDPR and] Chapter 3 of Part 2 of that Act [<sup>F8</sup>(exemptions for manual unstructured processing and for national security and defence purposes)]—

(a) the references to an FOI public authority were references to a public authority as defined in these Regulations, and

(b) the references to personal data held by such an authority were to be interpreted in accordance with regulation 3(2).]

(5) Except as provided by this regulation, expressions in these Regulations which appear in the Directive have the same meaning in these Regulations as they have in the Directive.

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| <b>F1</b> | Words in reg. 2(1) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), <b>Sch. 19 para. 306(2)</b> (with ss. 117, 209, 210, Sch. 20 para. 60); S.I. 2018/625, reg. 2(1)(g)  |
| <b>F2</b> | Words in reg. 2(1) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), <b>Sch. 3 para. 53(2)(a)</b> (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)       |
| <b>F3</b> | Words in reg. 2(1) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), <b>Sch. 3 para. 53(2)(b)</b> (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1) |
| <b>F4</b> | Words in reg. 2(1) inserted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), <b>Sch. 3 para. 53(2)(c)</b> (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)          |
| <b>F5</b> | Reg. 2(4A) substituted for reg. 2(4) (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), <b>Sch. 19 para. 306(3)</b> (with ss. 117, 209, 210, Sch. 20 para. 60); S.I. 2018/625, reg. 2(1)(g)   |
| <b>F6</b> | Words in reg. 2(4A) inserted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), <b>Sch. 3 para. 53(3)(a)</b> (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)         |
| <b>F7</b> | Words in reg. 2(4A) inserted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), <b>Sch. 3 para. 53(3)(b)</b> (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)         |
| <b>F8</b> | Words in reg. 2(4A) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), <b>Sch. 3 para. 53(3)(c)</b> (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)      |

## Application

3.—(1) Subject to paragraphs (3) and (4), these Regulations apply to public authorities.

(2) For the purposes of these Regulations, environmental information is held by a public authority if the information—

(a) is in the authority’s possession and has been produced or received by the authority; or

(b) is held by another person on behalf of the authority.

(3) These Regulations shall not apply to any public authority to the extent that it is acting in a judicial or legislative capacity.

(4) These Regulations shall not apply to either House of Parliament to the extent required for the purpose of avoiding an infringement of the privileges of either House.

(5) Each government department is to be treated as a person separate from any other government department for the purposes of Parts 2, 4 and 5 of these Regulations.

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**Changes to legislation:** There are currently no known outstanding effects for the The Environmental Information Regulations 2004, PART 1. (See end of Document for details)

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