

Summary of the Environmental Information Regulations 2004

An EIR request may be made verbally as well as in writing and will be a request for environmental information if it is information in written, visual, aural, electronic or any other material form on:-

- (a) the state of the elements of the environment – e.g. air, atmosphere, water, soil, land, landscape and natural sites such as wetlands, coastal and marine areas, biological diversity and the interaction of these elements;
- (b) factors affecting (or likely to affect) the environment – including energy, noise, radiation, waste, emissions, discharges and other releases into the environment;
- (c) measures – such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements and factors referred to above;
- (d) reports – on the implementation of environmental legislation;
- (e) economic analyses – including cost benefit and other economic analyses and assumptions used within the framework of measures and activities referred to in (c); and
- (f) the state of human health and safety – including the contamination of the food chain, conditions of human life, cultural sites and built structures insofar 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) or (c).

Under the EIR, information is held by the public authority if it has been produced or received by it, is held by another person on its behalf or which the public authority holds on behalf of a third party.

The EIR places various rights and duties on public authorities which include:

- A duty to actively disseminate environmental information;
- A duty to make information available on request. Information requests must be answered within 20 working days, unless the public authority reasonably believes that it is impracticable to answer the request in that timescale due to its complexity and volume, in which event the public authority may have 40 days in which to provide the information. There is no further extension of time allowed for consideration of the public interest test;
- A duty to provide advice and assistance to applicants;
- A right to charge for information provided. Under the EIR, there is no cost limit beyond which information requests need not be answered. There is also no provision dealing with the level of fees or charges. The EIR states that a

charge may not exceed “an amount which the public authority is satisfied is a reasonable amount”.

Exceptions – Under the EIR there is an express presumption in favor of disclosure. But the public authority can refuse to disclose the information if it would adversely affect the following matters:-

- a) international relations, defense, national security or public safety;
- b) the course of justice, ability of a person to receive a fair trial or ability of a public authority to conduct a criminal or disciplinary inquiry;
- c) intellectual property rights;
- d) the confidentiality or proceedings of any public authority where such confidentiality is protected by law;

SAMPLE ONLY