
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 520

The Environmental Information (Scotland) Regulations 2004

Interpretation

2.—(1) In these Regulations—

“the Act” means the Freedom of Information (Scotland) Act 2002 ^{M1};

“applicant” means any person who requests that environmental information be made available;

“the Commissioner” means the Scottish Information Commissioner constituted by section 42 of the Act;

[^{F1}“the data protection principles” means the principles set out in—

(a) Article 5(1) of the [^{F2}UK GDPR], and

(b) section 34(1) of the Data Protection Act 2018;]

[^{F1}“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);]

“the Directive” means Directive [2003/4/EC](#) of the European Parliament and of the Council on public access to environmental information and repealing Council Directive [90/313/EEC](#)^{M2};

“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 paragraph (a);
- (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 paragraphs (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) costs benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in paragraph (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 paragraph (a) or, through those elements, by any of the matters referred to in paragraphs (b) and (c);

[^{F4}“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);]

“Scottish public authority” means—

- (a) any body which, any other person who, or the holder of any office which is—
 - (i) listed in schedule 1 to the Act (but subject to any qualification in that schedule), or
 - (ii) designated by order under section 5(1) of the Act;
- (b) a publicly-owned company as defined by section 6 of the Act;
- (c) any other Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998 ^{M3}); and
- (d) any other person who is neither a public body nor the holder of a public office and who is under the control of a person or body falling within paragraphs (a), (b) or (c) of this definition 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; and

[^{F5}“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 73 of the Act.

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

- (a) in its possession and it has been produced or received by that authority; or
- (b) held by another person on that authority’s behalf,

and, in either case, it has not been supplied by a Minister of the Crown or department of the Government of the United Kingdom and held in confidence.

[^{F6}(3A) In these Regulations, references to [^{F7}the UK GDPR and] the Data Protection Act 2018 have effect as if in [^{F8}Article 2 of the UK GDPR and] Chapter 3 of Part 2 of that Act [^{F9}(exemptions for manual unstructured processing and for national security and defence purposes)] —

- (a) the references to an FOI public authority were references to a Scottish 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 paragraph (2) of this regulation.]

(4) Subject to paragraphs (1), (2) and (3), expressions in these Regulations which appear in the Directive have the same meaning in these Regulations as they have in the Directive.

Textual Amendments

- F1** Words in reg. 2(1) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 311(2)** (with ss. 117, 209, 210, Sch. 20 para. 61); S.I. 2018/625, reg. 2(1)(g)
- F2** 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), **Sch. 3 para. 56(2)(a)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F3** 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), **Sch. 3 para. 56(2)(b)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

- F4** Words in reg. 2(1) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 311(2)** (with ss. 117, 209, 210, Sch. 20 para. 61); S.I. 2018/625, **reg. 2(1)(g)**
- F5** 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), **Sch. 3 para. 56(2)(c)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Reg. 2(3A) substituted (25.5.2018) for reg. 2(3) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 311(3)** (with ss. 117, 209, 210, Sch. 20 para. 61); S.I. 2018/625, reg. 2(1)(g)
- F7** Words in reg. 2(3A) 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), **Sch. 3 para. 56(3)(a)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 2(3A) 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), **Sch. 3 para. 56(3)(b)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in reg. 2(3A) 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), **Sch. 3 para. 56(3)(c)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** 2002 asp 13.
- M2** O.J. No. L 41, 14.2.2003, p.26.
- M3** 1998 c. 46.

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Information (Scotland) Regulations 2004, Section 2.