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STATUTORY INSTRUMENT

Consolidated European Communities (Re-Use of Public Sector Information) Regulations

Regulations

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European Communities (Re-Use of Public Sector Information) Regulations 2005
Citation and commencement
1. (1) These Regulations may be cited as the European Communities (Re-Use of Public Sector Information) Regulations.
(2) These Regulations come into operation on --/--/----.

Interpretation
2. (1) In these Regulations—
“Appeal Commissioner” means the person who, for the time being, holds the office of Information Commissioner under the Freedom of Information Act 2014 (No. 30 of 2014);
“body governed by public law” means a body, having legal personality, established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and financed for the most part by one or more of the following:
(a) the State;
(b) a regional assembly;
(c) a local authority;
(d) any other body governed by public law;
(e) a body that is subject to management supervision by one or more than one body referred to in paragraphs (a), (b), (c) and (d);
(f) a body having an administrative, managerial or supervisory board, more than half of whose members are appointed by one or more than one body referred to in paragraphs (a), (b), (c) and (d);
"Directive" means Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003, as amended by Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013;
“document” means all or part of any form of document, record or data, whether in physical, electronic or other form and includes—
(a) any memorandum, book, plan, map, drawing, diagram, pictorial or graphic work,
(b) any photograph, and
(c) any sound, visual or audio-visual recording;
"enactment" has the same meaning as it has in the Interpretation Act 2005 (No. 23 of 2005);

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"formal open standard" means a standard which has been laid down in written form, detailing specifications for the requirements on how to ensure software interoperability;
"local authority" means a local authority for the purposes of the Local Government Act 2001 (No. 37 of 2001) (as amended by the Local Government Reform Act 2014 (No. 1 of 2014));
"machine-readable format" means a file format structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure;
"Minister" means the Minister for Public Expenditure and Reform;
"open format" means a file format that is platform-independent and made available to the public without any restriction that impedes the re-use of documents;
"personal data" has the same meaning as it has in the Data Protection Acts 1988 and 2003;
"public sector body" means—
(a) the State,
(b) a regional assembly,
(c) a local authority,
(d) an other body governed by public law , or
(e) an association formed by one or several bodies or associations referred to in this definition,
"regional assembly" means a body established in accordance with section 43 (as amended by the Local Government Reform Act 2014) of the Local Government Act 1991;
"requester", in relation to a request for the release for re-use of a document pursuant to these Regulations, means the person making the request;
"re-use", in relation to a document held by a public sector body, means the use by an individual or legal entity of the document for commercial or non-commercial purposes other than the initial purpose within the public task for which the document was produced, but does not include the exchange of such document between public sector bodies solely for the purpose of performing their public tasks.
"university" means a public sector body that provides post-secondary-school higher education leading to academic degrees.
(2) In these Regulations, unless otherwise indicated —
(a) a reference to a Regulation is a reference to a Regulation of these Regulations,
(b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs.

(3) A word or expression that is used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Directive.
3. (1) These Regulations do not apply to—
(a) documents, the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as provided for—
(i) by law, or
(ii) otherwise in accordance with common administrative practice, provided that the scope of the body’s public task is transparent and subject to review;
(b) documents in respect of which third parties hold intellectual property rights;
(c) documents, access to which could be excluded by virtue of - (i) the Data Protection Acts 1988 and 2003, (ii) the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, (iii) the Freedom of Information Act 2014, other than section 15(2) of that Act, (iv) the European Communities (Establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)) Regulations 2010 (S.I. No. 382 of 2010), or (v) any other enactment, including on the grounds of the protection of national security, defence or public security, statistical confidentiality or commercial confidentiality (including business, professional or company secrets); (ca) documents access to which is restricted by virtue of the enactments referred to in subparagraph (c) or any other enactment, including where a person is obliged to prove a particular interest in order to obtain such access; (cb) parts of documents containing only logos, crests and insignia; (cc) (i) documents, access to which could be excluded or restricted by virtue of the enactments referred to in subparagraph (c) or any other enactment on the grounds of protection of personal data, and (ii) parts of documents that are accessible by virtue of the enactments referred to in subparagraph (c) or any other enactment and contain personal data the re-use of which would be incompatible with the law concerning the protection of individuals with regard to the processing of personal data;
(d) documents held by public service broadcasters and their subsidiaries, and by other bodies or their subsidiaries for the fulfilment of a public service broadcasting remit;
(e) documents held by educational and research establishments including organisations established for the transfer of research results, schools and universities, other than university libraries;
(f) documents held by cultural establishments, other than museums, libraries and archives;
(2) Nothing in these Regulations shall be read as—
(a) affecting any right or function under the Data Protection Acts 1988 and 2003,
(b) permitting the release of information by a public sector body in a manner that is prohibited by law, or

(c) requiring the release of information that is legally privileged.
(3) The obligations imposed by these Regulations apply only in so far as they are compatible with the provisions of international agreements on the protection of intellectual property rights, in particular the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).
Obligation to supply information to Minister
4. (1) A public sector body shall supply the Minister with—
(a) in relation to documents made available by the public sector body for re-use, information relating to those documents, and
(b) such other information as the Minister may, from time to time, require for the purpose of enabling him or her to take all reasonable steps to ensure that practical arrangements are in place to facilitate a search for documents available for re-use
(2) A public sector body shall comply with any other request from the Minister for information that may, from time to time, be made for the purposes of these Regulations or the Directive.
(3) Information provided under this Regulation shall be in such format as the Minister may specify.
Release of documents
5. (1) (a) An individual or a legal entity may make a request in a legible form to a public sector body to release documents for re-use.
(b) Every request under subparagraph (a) shall clearly indicate that it is being made for the purpose of the re-use of public sector information.
(c) Every request made in a language other than Irish or English shall be accompanied by a translation of the request into Irish or English.
(2) Subject to paragraph (2A), a public sector body shall, on receipt of a request under paragraph (1) in respect of a document held by it to which these Regulations apply, allow the re-use of the document for commercial or non-commercial purposes in accordance with the conditions and time limits provided for by these Regulations.
(2A) Where a request under paragraph (1) in respect of a document to which these Regulations apply is made to a library, university library, museum or archive that holds intellectual property rights in the documents, the library, university library, museum or archive shall, if it approves the request, allow the re-use of the document for commercial or non-commercial purposes in accordance with the conditions and time limits provided for by these Regulations.

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<p>(3) (a) Where a public sector body allows the re-use of a document, then the body shall, consequent on a request from a requester, through electronic means where possible and appropriate-</p> <p>(i) process the request and deliver the documents for re-use to the requester, or</p> <p>(ii) if necessary, finalise the offer of a licence to the requester, within-</p> <p>(I) 40 working days from receipt of the request, if the request is extensive or complex, or</p> <p>(II) 20 working days from receipt of that request in any other case.</p>
<p>(b) Where processing the request and delivering the documents concerned to the requester will exceed, or is likely to exceed, 20 working days from receipt of the request, then the public sector body concerned shall advise the requester accordingly within 3 weeks after the initial request was received.</p>
<p>(c) Nothing in this paragraph shall affect the granting, in accordance with Regulation 9, of an exclusive right to re-use a document where such grant is necessary for the provision of a service in the public interest.</p>
<p>(4) (a) Where a request under this Regulation is refused by a public sector body, it shall communicate the grounds of the refusal to the requester in particular and where appropriate by reference to the matters contained in subparagraphs (a) to (cc) of Regulation 3(1) or paragraph (2) or (2A) of this Regulation.</p>
<p>(b) Subject to subparagraph (ba), where the refusal is based on the intellectual property rights of a third party, the public sector body concerned shall include in the communication of the refusal to the requester a reference to the third party, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material.</p> <p>(ba) Subparagraph (b) shall not apply to libraries, university libraries, museums or archives.</p>
<p>(c) Any decision made on foot of a request under paragraph (1) shall contain a reference to the means of redress available under these Regulations to the requester.</p>
<p>(4A) Paragraphs (3) and (4) shall not apply to a public sector body referred to in paragraphs (d), (e) or (f) of Regulation 3(1).</p>
<p>(5) (a) Where a public sector body makes a document available for re-use it shall make the document available in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with its metadata, in compliance with formal open standards.</p>
<p>(b) Nothing in these Regulations requires a public sector body—</p> <p>(i) to create or adapt any document in order to comply with a request,</p> <p>(ii) to provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation,</p> <p>(iii) to continue the production or storage of a certain type of documents with a view to re-use.</p>

Charging for re-use of documents

6. (1) (a) A public sector body may charge for the re-use of documents.

(b) Subject to paragraph (1A), where charges are made for the re-use of documents, the charges shall be limited to the marginal costs incurred by the public sector body for the reproduction, provision and dissemination of the documents.

(1A)(a) Paragraph (1)(b) shall not apply –

- (i) where the public sector body concerned is required to generate revenue to cover a substantial part of its costs relating to the performance of its public tasks,
- (ii) where the public sector body concerned is required to generate sufficient revenue to cover a substantial part of the costs relating to the collection, production, reproduction and dissemination of the documents, or
- (iii) in respect of libraries, university libraries, museums and archives.

(b) The requirement referred to in paragraph (1A)(a)(ii) shall be –

- (i) defined by law or other binding rules or, in the absence of such rules, in accordance with common administrative practice,
- (ii) pre-established and
- (iii) where possible and appropriate, published by electronic means.

(1B) In the cases referred to in paragraph (1A)(a)(i) and (ii) -

- (a) the public sector bodies concerned shall calculate charges for the re-use of documents according to objective, transparent and verifiable criteria laid down by the Minister from time to time,
- (b) the total income of the public sector bodies concerned from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment, and
- (c) the charges should be calculated in line with the accounting principles applicable to the public sector bodies concerned.

(1C) In the case referred to in paragraph (1A)(a)(iii) –

- (a) the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance in respect of these documents, together with a reasonable return on investment, and
- (b) charges for the re-use of documents shall be calculated in line with the accounting principles applicable to the public sector bodies involved.

(2) Nothing in paragraph (1) shall be read so as to prevent -
(a) the exchange of information between public sector bodies free of charge for the exercise of public tasks even where, in any other case, a charge would be imposed in respect of the re-use concerned, or
(b) the adoption of a differential charging policy for commercial and non-commercial re-use.
(3) If documents which are, or may be, made available by a public sector body under these Regulations are re-used by such public sector body or another public sector body as input for its commercial activities which fall outside the scope of its public tasks, the same charges and other conditions shall apply to the supply of the documents for those activities as apply to other users.
Transparency
7.
(1) Where a public sector body makes standard charges for re-use of a document, it shall establish and publish, through electronic means where possible and appropriate –
(a) any applicable conditions,
(b) the amount of the charge, and
(c) the calculation basis for the charge.
(2) Where a public sector body makes a charge other than a standard charge for re-use of a document, it shall –
(a) indicate at the time the request for re-use is made what factors are taken into account in the calculation of the charge, and
(b) if requested to do so, indicate the way in which the charge is calculated in relation to the request for re-use.
(3) Public sector bodies shall ensure that requesters for re-use of documents are informed of available means of redress relating to decisions or practices affecting them.
Licensing
8.
(1) A public sector body may –
(a) allow re-use without conditions, or
(b) impose conditions on re-use, where appropriate through a licence, provided that such conditions shall not -
(i) unnecessarily restrict possibilities for re-use, or
(ii) be used to restrict competition.
(2) Subject to Regulation 6(2), any applicable conditions for the re-use of documents shall be non-discriminatory for comparable categories of re-use.

(3) A public sector body shall, where possible and appropriate, use the standard licence for the re-use of documents published from time to time by the Minister.

Practical arrangements to facilitate searches

8A.(1) A public sector body shall make available to the public a list of its main documents available for re-use together with relevant metadata.

(2) In relation to paragraph (1) a public sector body shall -

- (a) where possible and appropriate, ensure that the list of its main documents is available in machine-readable format,
- (b) where possible and appropriate, ensure that potential requesters are able to search the list of documents and relevant metadata by electronic means, and
- (c) where possible, facilitate the cross-linguistic search for documents.

Restriction on grant of exclusive rights

9. (1)(a) Contracts or other arrangements between a public sector body and a third party in respect of any document shall not grant exclusive rights to re-use the document, unless such a grant is necessary for the provision of a service in the public interest.

(b) In deciding if—

- (i) a grant of an exclusive right to re-use a document would be necessary for the provision of a service in the public interest, or
- (ii) on any review of such a grant, its continuation would be necessary for the provision of a service in the public interest,

account may be taken of circumstances where, upon such a review, no commercial publisher would publish information that is related to the document concerned without such a grant or its continuation.

(2) A grant of exclusive rights in accordance with paragraph (1) to re-use a document shall -

- (a) be subject to regular review at intervals of not more than 3 years and
- (b) cease to be a grant of exclusive rights where it is found not to be necessary for the provision of a service in the public interest,

and the public sector body concerned shall take all steps necessary for the purposes of this paragraph.

(2A)(a) Paragraph (2) shall not apply to digitisation of cultural resources.

(b) Notwithstanding subparagraph (a), where a grant of exclusive rights relates to digitisation of cultural resources, the period of exclusivity shall—

- (i) in general not exceed 10 years, and
- (ii) where it exceeds 10 years, be subject to review during the eleventh year and, if applicable, every 7 years thereafter.

(c) Arrangements granting exclusive rights referred to in paragraph (2) shall be transparent and made public.

<p>(d) Where a public sector body enters into an arrangement referred to in subparagraph (2), a party managing or carrying out the digitisation shall provide the public sector body with a copy of the digitised cultural resources free of charge, and such copy shall be available for re-use at the end of the period of exclusivity.</p>
<p>(3) Any public sector body which on or after 1 July 2005 grants exclusive rights to re-use any document shall ensure that the contract or other arrangement concerned is transparent and made public.</p>
<p>(4) Any contract or other arrangement—</p>
<p>(a) entered into before 1 July 2005 between a public sector body and a third party that grants exclusive rights to re-use a document, and</p>
<p>(b) that is not necessary for the provision of a service in the public interest,</p>
<p>shall be terminated on the date the contract or other arrangement ends, or shall cease to have effect after 31 December 2008, whichever first occurs.</p>
<p>(5) Without prejudice to paragraph (4), exclusive arrangements existing on 17 July 2013, other than those referred to in paragraphs (2) or (2A), shall be terminated at the end of the contract or in any event not later than 18 July 2043.</p>
<p>Appeals</p>
<p>10. (1) Where a public sector body decides—</p>
<p>(a) to refuse to allow a requester to re-use a document,</p>
<p>(b) to refuse to grant an exclusive right to a requester to re-use a document,</p>
<p>(c) to allow the re-use of a document but subject to a proposed fee being paid which the requester believes does not accord with the requirements of these Regulations in setting the amount of the proposed fee, or</p>
<p>(d) to allow the re-use of a document subject to imposing conditions,</p>
<p>then, the requester may appeal against the refusal, the amount of the proposed fee or any condition so imposed, as the case may be.</p>
<p>(2) An appeal shall be sent to the Appeal Commissioner in a legible form.</p>
<p>(3) An appeal under paragraph (1) shall be made—</p>
<p>(a) not later than 4 weeks after the notification of the decision by the public sector body to the requester concerned, or</p>
<p>(b) in a case in which the Appeal Commissioner is of opinion that there are reasonable grounds for extending that period, not later than the expiration of an additional period of such length as he or she may determine.</p>

Appointment of Appeal Commissioner

11.

- (4) (a) **The Appeal Commissioner may delegate his or her functions as Appeal Commissioner in respect of an appeal under these Regulations to a member of his or her staff.**
- (b) Where a delegation has been made under subparagraph (a), references elsewhere in these Regulations to the Appeal Commissioner shall be read, where appropriate having regard to the delegation, as including references to any person to whom functions stand delegated by the delegation.
- (5) (b) A person exercising functions by virtue of a delegation made under paragraph (4)(a) shall cease to exercise those functions—
- (i) if the delegation is revoked by the Appeal Commissioner, or
- (ii) if the person ceases to be a member of the staff of the Appeal Commissioner, and, consequentially, those functions are exercisable by the Appeal Commissioner or by such other person as the Appeal Commissioner may delegate those functions to under paragraph (4)(a).
- (6) In this Regulation—
- (a) a reference to a member of staff includes, where appropriate, an employee, officer or servant.

Review of decision by Appeal Commissioner

12. (1) This Regulation applies to a decision by a public sector body to which Regulation 10(1) relates.

(2) The Appeal Commissioner shall—

(a) review in accordance with these Regulations a decision to which this Regulation applies, and

(b) following the review, may, as the Appeal Commissioner considers appropriate decide—

(i) to affirm or vary the decision, or

(ii) to annul the decision and, if appropriate, make such decision in relation to the matter concerned as he or she considers proper,

in accordance with these Regulations.

<p>(3) A decision by the Appeal Commissioner under paragraph (2) shall be made as soon as may be and, in so far as practicable, not later than 3 months after the receipt by the Appeal Commissioner of the application for the review concerned.</p>
<p>(4) (a) A person who makes an application under paragraph (2) may, by notice in writing given to the Appeal Commissioner, at any time before a notice under paragraph (9) in relation to the application is given to the person withdraw the application.</p>
<p>(b) The Appeal Commissioner shall cause a copy of any notice given to him or her under this paragraph to be given to the public sector body concerned and to any other person to whom, in the opinion of the Appeal Commissioner, it should be given.</p>
<p>(5) As soon as may be after the receipt by the Appeal Commissioner of an application under paragraph (2), the Appeal Commissioner shall—</p>
<p>(a) cause a copy of the application to be given to the public sector body concerned, and</p>
<p>(b) if he or she proposes to review the decision concerned, cause the public sector body concerned and any other person who, in the opinion of the Appeal Commissioner, should be notified of the proposal to be so notified.</p>
<p>(6) Where an application under paragraph (2) is made, the Appeal Commissioner may at any time endeavour to effect a settlement between the parties concerned of the matter concerned and may for that purpose notwithstanding paragraph (3), suspend, for such period as may be agreed with the parties concerned and, if appropriate, discontinue, the review concerned.</p>
<p>(7) In relation to a proposed review under this Regulation—</p>
<p>(a) the public sector body concerned, and</p>
<p>(b) any other person who under paragraph (5) is notified of the review, may make submissions (in writing or orally or in such other form as may be determined by the Appeal Commissioner) to the Appeal Commissioner in relation to any matter relevant to the review and the Appeal Commissioner shall take any such submissions into account for the purposes of the review.</p>
<p>(8) (a) The Appeal Commissioner may refuse to grant an application under paragraph (2) or discontinue a review under this Regulation if he or she is or becomes of the opinion that—</p>
<p>(i) the application aforesaid or the application to which the review relates (“the application”) is frivolous or vexatious,</p>
<p>(ii) the application does not relate to a decision specified in paragraph (1), or</p>
<p>(iii) the matter to which the application relates is, has been or will be, the subject of another review under this Regulation.</p>
<p>(b) In determining whether to refuse to grant an application under paragraph (2) or to discontinue a review under this Regulation, the Appeal Commissioner shall, subject to the provisions of these Regulations, act in accordance with his or her own discretion.</p>

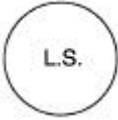
(9) Notice, in writing or in such other form as may be determined, of a decision under paragraph (2)(b), or of a refusal or discontinuation under paragraph (8) and the reasons therefor, shall be given by the Appeal Commissioner to—
(a) the public sector body concerned,
(b) the person appealing to the Appeal Commissioner against the decision of the public sector body concerned, and
(c) any other person to whom, in the opinion of the Appeal Commissioner such notice should be given.
(10) The notice referred to in paragraph (9) shall be given as soon as may be after the decision, refusal or discontinuation concerned and, if it relates to a decision under paragraph (2), in so far as practicable, within the period specified in paragraph (3).
(11) A decision of the Appeal Commissioner following a review under this Regulation shall, where appropriate, specify the period within which effect shall be given to the decision and, in fixing such a period, the Appeal Commissioner shall have regard to the desirability, subject to any appeal to the High Court from the decision, of giving effect to such a decision as soon as may be after compliance in relation thereto with paragraph (10).
(12) Subject to the provisions of these Regulations, a decision under paragraph (2) shall—
(a) in so far as it is inconsistent with the decision to which Regulation 5(3) relates have effect in place of the decision to which that Regulation relates, and
(b) be binding on the parties concerned.
Request for further information
13. (1) Where—
(a) an application is made under Regulation 10 for the review by an Appeal Commissioner of a decision by a public sector body, and
(b) the Appeal Commissioner considers that the statement of the reasons for the decision referred to in Regulation 5(3) is not adequate,
then the Appeal Commissioner shall direct the public sector body concerned to furnish to the requester concerned and the Appeal Commissioner a statement, in writing or such other form as may be determined, containing any further information in relation to those matters that is in the power or control of the public sector body.
(2) A public sector body shall comply with a direction under this Regulation as soon as may be, but not later than 3 weeks, after its receipt, or such longer period or periods as the Appeal Commissioner considers appropriate in the circumstances.

Powers of Appeal Commissioner
14.— (1) The Appeal Commissioner may, for the purposes of a review under Regulation 12—
(a) require any person who, in the opinion of the Appeal Commissioner, is in possession of information, or has a record in his or her power or control, that, in the opinion of the Appeal Commissioner, is relevant to the said purposes to furnish to the Appeal Commissioner any such information or record that is in his or her possession or, as the case may be, power or control and, where appropriate, require the person to attend before him or her for that purpose, and
(b) examine and take copies in any form of, or of extracts from any record that, in the opinion of the Appeal Commissioner, is relevant to the review or investigation and for those purposes take possession of any such record, remove it from the premises and retain it in his or her possession for a reasonable period.
(2) The Appeal Commissioner may for the purpose of such a review enter any premises occupied by a public sector body and there—
(a) require any person found on the premises—
(i) to furnish the Appeal Commissioner with such information in the possession of that person as the Appeal Commissioner may reasonably require for that purpose, and
(ii) to make available to the Appeal Commissioner any record in that person's power or control that, in the opinion of the Appeal Commissioner, is relevant to that purpose,
and
(b) examine and take copies of, or of extracts from, any record so made available or found on the premises.
(3) Subject to paragraph (4), no enactment or rule of law prohibiting or restricting the disclosure or communication of information shall preclude a person from furnishing to the Commissioner any information or record to which paragraph (2) relates.
(4) A person to whom a requirement is addressed under this Regulation is entitled to the same immunities and privileges as a witness in a court.
(5) The Appeal Commissioner may, if he or she thinks fit, pay to any person who for the purposes of a review under Regulation 12, attends before the Appeal Commissioner or furnishes information or a record or other thing to him or her—
(a) sums in respect of travelling and subsistence expenses properly incurred by the person, and
(b) allowances by way of compensation for loss of his or her time, of such amount as may be determined by the Minister.

<p>(6) Subject to these Regulations, the procedure for conducting a review under Regulation 12 shall be such as the Appeal Commissioner considers appropriate in all the circumstances of the case and, without prejudice to the foregoing, shall be as informal as is consistent with the due performance of the functions of the Appeal Commissioner.</p>
<p>(7) (a) A person who fails or refuses to comply with a requirement under this Regulation or who hinders or obstructs an Appeal Commissioner in the performance of his or her functions under this section commits an offence and is liable on summary conviction to a fine not exceeding €2,500 or to imprisonment for a term not exceeding 6 months or to both.</p>
<p>(b) Where an offence under this paragraph is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person also commits an offence and is liable to be proceeded against and punished as if he or she had committed of the first-mentioned offence.</p>
<p>Appeal to High Court, etc.</p>
<p>15. (1) A party to a review under Regulation 12 or any other person affected by the decision of the Appeal Commissioner following such a review may appeal to the High Court on a point of law from the decision.</p>
<p>(2) The requester concerned or any other person affected by—</p>
<p>(a) a decision by the Appeal Commissioner under Regulation 12(2), or</p>
<p>(b) a direction by the Appeal Commissioner under Regulation 13(1),</p>
<p>may appeal to the High Court on a point of law against such decision or direction or from such decision or direction.</p>
<p>(3) Public sector bodies shall ensure that requesters for re-use of documents are informed of available means of redress relating to decisions or practices affecting them. An appeal under this Regulation shall be initiated not later than 8 weeks after notice of the decision or direction concerned was given to the person bringing the appeal.</p>
<p>(4) The Appeal Commissioner may refer any question of law arising in a review under Regulation 8 to the High Court for determination, and the Appeal Commissioner may postpone the making of a decision following the review until such time as he or she considers convenient after the determination of the High Court.</p>
<p>(5) (a) Where an appeal under this Regulation by a person is dismissed by the High Court, that Court may, if it considers that the point of law concerned was of exceptional public importance, order that some or all of the costs of the person in relation to the appeal be paid by the public sector body concerned.</p>

(b) The High Court may order that some or all of the costs of a person in relation to a reference under this section be paid by the public body concerned.
(c) The Supreme Court may order that some or all of the costs of a person in relation to an appeal to that Court from a decision of the High Court under this Regulation be paid by the public sector body concerned if it considers that a point of law of exceptional public importance was involved in the appeal and, but for this paragraph, that Court would not so order.
(6) A decision of the High Court following an appeal under paragraph (1) or (2) shall, where appropriate, specify the period within which effect shall be given to the decision.
Precautions by Court and Appeal Commissioner against disclosure of certain information
16. (1) In proceedings before a Court under or in relation to these Regulations, the Court shall take all reasonable precautions to prevent the disclosure to the public or, if appropriate, to a party (other than the public sector body concerned) to the proceedings of—
(a) information contained in any record which is an exempt record for the purposes of the Freedom of Information Act 2014, or
(b) information as to whether a record exists or does not exist in a case where the head of the public body concerned (being such a head for the purposes of the Freedom of Information Act 2014) is required by that Act not to disclose whether the record exists or does not exist.
(2) Without prejudice to the generality of paragraph (1), precautions under that paragraph may include—
(a) hearing the whole or part of any proceedings before a Court otherwise than in public,
(b) prohibiting the publication of such information in relation to any such proceedings as it may determine, including information in relation to the parties to the proceedings and the contents of orders made by the Court concerned in the proceedings, and
(c) examining a record or a copy of a record without giving access or information in relation to it to a party (other than the public sector body concerned) to the proceedings.
(3) In the performance of his or her functions under this Act, the Appeal Commissioner shall take all reasonable precautions (including conducting the whole or part of a review under Regulation 12 otherwise than in public) to prevent the disclosure to the public or, in the case of such a review, to a party (other than the public sector body concerned) to the proceedings concerned of information specified in subparagraph (a) or (b) of paragraph (1) or matter that, if it were included in a record, would cause the record to be an exempt record for the purposes of the Freedom of Information Act 2014.

This is not a legal document. It was prepared by the Department of Public Expenditure and Reform strictly for reference purposes only.

	<p style="text-align: right;">GIVEN under my Official Seal,</p> <p style="text-align: center;"></p>
	<p>¹ OJ No. L 345, 31 December 2003, page 90</p> <p>² OJ No. L 175, 27 June 2013, page 1</p>