

# **Act of 9 May 2003 No.31 Relating to the Right to Environmental Information and Public Participation in Decision-making Processes Relating to the Environment**

Translation for information use only.

Amendments after 2003 is not translated.

## **Chapter 1 Introductory provisions**

### **§ 1. Purpose of the Act**

The purpose of this Act is to ensure public access to environmental information and thus make it easier for individuals to contribute to the protection of the environment, to protect themselves against injury to health and environmental damage, and to influence public and private decision-makers in environmental matters. The Act is also intended to promote public participation in decision-making processes of significance relating to the environment.

### **§ 2. Definition of environmental information**

Environmental information means factual information about and assessments of:

- a) the environment,
- b) factors that affect or may affect the environment, including
  - projects and activities that are being planned or have been implemented in the environment
  - the properties and contents of products
  - factors related to the operation of undertakings, and
  - administrative decisions and measures, including individual decisions, agreements, legislation, plans, strategies and programmes, as well as related analyses, calculations and other assumptions used in environmental decision-making,
- c) human health, safety and living conditions to the extent that they are or may be affected by the state of the environment or factors such as are mentioned in litra b).

The environment means the external environment, including archeological and architectural monuments and sites and cultural environments.

### **§ 3. Relationship to other legislation**

This Act does not restrict the right to information pursuant to the Freedom of Information Act, the Public Administration Act or other legislation.

The right to environmental information applies subject to the restrictions imposed by the Copyright Act.

This Act does not apply to information in cases dealt with pursuant to the legislation relating to the administration of justice.

### **§ 4. Scope**

This Act applies to Norwegian public authorities and to undertakings that are established in Norway.

The King may decide that the entire Act or parts of it shall apply to public authorities and undertakings in Svalbard and Jan Mayen. The King may issue provisions on the application of the Act on the continental shelf and in the Norwegian economic zone with respect to undertakings that are not established in Norway.

### **§ 5. Definition of public authorities and scope of chapters 3 and 4**

The provisions of Chapter 3 apply to public authorities. A public authority means:

- a) any administrative agency that comes within the scope of section 1 of the Freedom of Information Act,
- b) legal persons that perform public functions or offer services to the public, and that are subject to the control of an administrative agency that comes within the scope of *litra a)*. Nevertheless, this does not apply to any of their services that are operated in competition with the private sector. A legal person is subject to the control of an administrative agency if an agency that comes within the scope of *litra a)* appoints more than half of the members of the governing bodies of the legal person, or otherwise has a decisive influence on the legal person,
- c) legal persons that are either responsible pursuant to acts or regulations for performing public functions or offering services to the public relating to the environment, or commissioned to do so by an authority to which *litra a)* or *b)* applies. This only applies to environmental information related to these functions or services.

The provisions of Chapter 4 apply to all other public and private undertakings, including commercial enterprises and other organised activities.

## **§ 6. Charges**

It is not permitted to charge for environmental information to which a person is entitled pursuant to this Act unless otherwise provided by regulations laid down pursuant to this Act or the Freedom of Information Act.

## **§ 7. Regulations pursuant to this Act**

The King may by regulations lay down supplementary provisions to this Act, including provisions on charges for environmental information and the competence of, and administrative procedures for, the Appeals Board for Environmental Information.

## **Chapter 2 Duty to hold environmental information**

### **§ 8. Duty of administrative agencies to hold environmental information and make it accessible to the public**

Administrative agencies such as are mentioned in section 5, sub-section 1, litra a), shall hold general environmental information relevant to their areas of responsibility and functions, and make this information accessible to the public.

### **§ 9. Duty to hold information about environmental factors relating to an undertaking**

Any undertaking to which chapter 3 or 4 applies shall hold information about factors relating to the undertaking's operations, including factor inputs and products, which may have an appreciable effect on the environment.

## **Chapter 3 Environmental information from public authorities**

## **§ 10. Right to receive environmental information held by a public authority**

Any person is entitled to receive environmental information from a public authority, provided that such information is held by the public authority concerned or comes within the scope of the authority's duty to hold information pursuant to section 8 or 9, and no exemption has been made from the right to receive information pursuant to this Act.

Environmental information is held by a public authority if the information

- a) is held by the public authority itself, or
- b) is held by a natural or legal person on behalf of the public authority.

A request for environmental information may be summarily dismissed if it is formulated in too general a manner or does not provide an adequate basis for identifying what is meant by the request. Before such a request is dismissed, the person requesting information shall be given reasonable assistance to formulate the request in such a way that it can be addressed.

If a request for access to information is not directed to the appropriate authority, the authority that received the request shall as promptly as possible transfer the request to the correct public authority, or inform the applicant of the public authorities that are assumed to hold the information requested.

## **§ 11. Exemptions**

A request for environmental information may be refused if there is a genuine and objective need to do so in a specific case and the information, or the document containing the information, may be exempted from public disclosure pursuant to the Freedom of Information Act.

When considering whether there is a genuine and objective need pursuant to subsection 1, the environmental and public interests served by disclosure shall be weighed against the interests served by the refusal. If the environmental and public interests outweigh the interests served by refusal, the information shall be disclosed.

If there are grounds for refusing to disclose part of the requested information, the remaining information shall be disclosed provided that this does not give a clearly misleading impression of the contents.

## **§ 12. Environmental information that shall always be disclosed**

Notwithstanding the provisions of section 11, the public shall always have access to information on

- a) pollution that is harmful to health or that may cause serious environmental damage,
- b) measures to prevent or reduce damage such as is mentioned in litra a), and
- c) unlawful intervention in or damage to the environment.

### **§ 13. Administrative procedures**

Information shall be provided in the form or format requested by the applicant, unless

- a) the information is easily accessible in another form or format, or
- b) it is reasonable for the public authority to make it available in another form or format. In such cases, the public authority shall give a brief explanation of the grounds for providing the information in this form or format. The grounds shall be stated at the same time as the information is disclosed.

The information shall be adequate and comprehensible in relation to the need for information expressed by the applicant. If the request for information can be answered adequately by referring to generally available public registers, reports, product labelling, etc., the applicant may be referred to such sources of information.

The recipient of a request for environmental information shall make a decision on the request and make the information available as soon as possible and no later than 15 working days after the request was received. If, given the volume or type of information requested, it would involve a disproportionate amount of work to provide the information within 15 working days, the applicant shall receive the information within two months. The applicant shall be informed of any extension of the time limit, of the reasons justifying this and when a decision may be expected, as soon as possible and at the latest 15 working days after the request was received. A provisional reply may be omitted if it is considered obviously unnecessary.

If a request for environmental information is refused, the public authority shall indicate the provision pursuant to which the refusal is made, provide a brief explanation of the refusal, and inform the applicant of the right to request further grounds for the refusal and the time limit for doing so, and of the right of appeal and the time limit for lodging an appeal. A refusal shall be given in writing.

The applicant may, within three weeks of the date when notification of the refusal was received, request further explanation of the grounds for the refusal. The grounds shall be provided as soon as possible and at the latest ten working days after the request

for further grounds was received. The grounds shall be provided in writing if the applicant so requests.

## **§ 14. Identification of information which for competition reasons it is important to keep secret and special procedural rules**

A public authority may require any person that provides the authority with information, or that is affected by a request for environmental information, to identify information which for competition reasons it is important to keep secret, and to give reasons for this.

Before the public authority takes a decision to disclose information that is subject to a statutory duty of secrecy, the person whom the information concerns shall be given the opportunity to express an opinion within an appropriate time limit.

If the public authority wishes to disclose information that is subject to a statutory duty of secrecy, the person whom the information concerns shall be notified. The decision to disclose the information may be appealed. The provisions of section 15 apply correspondingly. An appeal has a suspensive effect.

## **§ 15. Appeals**

Refusal of a request for environmental information may be appealed to the immediately superior administrative agency. The same applies to summary dismissal of a request in accordance with section 10, sub-section 3. The time limit for lodging an appeal is three weeks from the date when notification of the refusal has reached the party concerned. If no answer has been received to the request for information within two months after it was received by the public authority, this shall be regarded as a refusal that may be appealed. If the applicant has requested further explanation of the grounds for the refusal in accordance with section 13, sub-section 5, the time limit for an appeal shall be interrupted.

For appeals against the refusal of a request for information by a public authority to which section 5, sub-section 1, litra b) or c) applies, the appeals instance is the administrative agency that

- a) is responsible for control of the public authority,
- b) has commissioned the public authority to carry out tasks or is responsible for control of another public authority that has commissioned it to carry out tasks,
- c) has issued the regulations or has administrative responsibility for the act pursuant to which an undertaking is offering its services.

The provisions of the Freedom of Information Act relating to appeals apply insofar as they are appropriate to appeals against a refusal by a public authority to provide environmental information.

## **Chapter 4 Environmental information concerning undertakings (operating conditions etc.)**

### **§ 16. Right to receive information about undertakings**

Any person is entitled to receive environmental information from undertakings such as are mentioned in section 5, sub-section 2, concerning factors related to the undertaking, including factor inputs and products, which may have an appreciable effect on the environment.

The right to environmental information pursuant to sub-section 1 also applies to information about effects on the environment resulting from production or distribution of a product outside Norway's borders, insofar as such information is available. An undertaking shall request such information from the previous link in the supply chain if this is necessary to enable it to answer the request for information.

A request for environmental information may be summarily dismissed if it is formulated in too general a manner or does not provide an adequate basis for identifying what is meant by the request.

### **§ 17. Exemptions**

A request for environmental information may be refused if

- a) it needs to be exempted because public disclosure would facilitate the commission of acts that may harm parts of the environment that are particularly vulnerable or threatened with extinction,
- b) the request is clearly unreasonable, or
- c) the information requested concerns technical devices and procedures or operational or business matters which for competition reasons it is important to keep secret in the interests of the person whom the information concerns.

The types of environmental information mentioned in section 12 shall always be disclosed. The provisions of section 14, sub-sections 2 and 3, apply accordingly insofar as they are appropriate.

The provision of section 11, sub-section 3, applies accordingly.

## **§ 18. Administrative procedures**

The recipient of a request for environmental information may provide the information in the form or format that is considered to be appropriate.

The information shall be adequate and comprehensible in relation to the need for information expressed by the applicant. If the request for information can be answered satisfactorily by referring to generally available public registers, reports, product labelling, etc., the applicant may be referred to such sources of information.

Several undertakings may choose to fulfil their duty to provide information jointly.

The recipient of a request for environmental information shall make a decision on the request and make the information available as soon as possible and no later than one month after the request was received. If, given the volume or type of information requested, it would involve a disproportionate amount of work to provide the information within one month, the applicant shall receive the information within two months. The applicant shall be informed about any extension of the time limit, of the reasons justifying this and when a decision may be expected, as soon as possible, and at the latest one month after the request was received. A provisional reply may be omitted if it is considered obviously unnecessary.

If a request for environmental information is refused, the undertaking shall indicate the provision pursuant to which the refusal is made and inform the applicant of the right to request further grounds for the refusal and the time limit for doing so, and of the right of appeal and the time limit for lodging an appeal.

The applicant may, within three weeks of the date when notification of the refusal was received from the enterprise, request a brief explanation of the refusal. The explanation shall be provided as soon as possible and at the latest ten working days after the request for an explanation was received. The explanation shall be provided in writing if the applicant so requests.

## **§ 19. Appeals**

Refusal of a request for environmental information pursuant to this chapter or to section 10 of the Product Control Act may be appealed to the Appeals Board for Environmental Information. The same applies to summary dismissal pursuant to section 16, sub-section 3.

The appeal shall be addressed to the Appeals Board for Environmental Information, with a copy to the undertaking that made the decision. The time limit for lodging an

appeal is three weeks from the date when notification of the refusal reached the party concerned. If no answer has been received to the request for information within two months after it was received by the undertaking, this shall be regarded as a refusal that may be appealed. If the applicant has requested further explanation of the grounds for the refusal in accordance with section 18, sub-section 6, the time limit for an appeal shall be interrupted.

The Appeals Board shall consist of a chair, deputy chair and six ordinary members, all to be appointed by the King for four years at a time. The first time members of the Board are appointed, it may be determined that some of the members are to have a shorter term of office. The chair and deputy chair shall have law degrees. Three of the members shall come from the private sector, and the other three from an environmental organisation, a consumer rights organisation or a media organisation.

When dealing with specific cases, the Appeals Board for Environmental Information shall consist of the chair or deputy chair and two ordinary members, one drawn from the private sector and one from an environmental, a media or a consumer rights organisation.

Decisions of the Appeals Board shall be taken by a simple majority, and decisions and the grounds for them shall be recorded in writing.

Decisions of the Appeals Board constitute special grounds for enforcement pursuant to Chapter 13 of the Enforcement Act.

## **Chapter 5 Public participation in decision-making processes relating to the environment**

### **§ 20. Right to participation in decision-making processes related to the preparation of legislation, plans and programmes**

Administrative agencies shall, in connection with the preparation of legislation, plans and programmes relating to the environment, make provision for participation by the public in these processes. This shall be done at stages and within time frames that provide real opportunities to influence the decisions that are made. To this end, the public shall be provided with the necessary information.

During the preparation of legislation, plans or programmes that may have a significant impact on the environment, a public hearing shall be held. The hearing shall be held well before a final decision is taken. An account of the environmental impact of the proposal shall be available at the hearing. A public hearing may be dispensed with if:

- a) other forms of participation are considered to be more appropriate means of safeguarding the right of the public to participate in the decision-making process,
- b) it would not be possible to carry out a public hearing for practical reasons,
- c) a public hearing might make implementation of the matter difficult or impair its effectiveness, or
- d) a public hearing is considered to be clearly unnecessary.

Drafts of reports and propositions to the Storting may be exempted from the requirement to hold public hearings.

Decisions taken in such matters shall be made public. It shall be clear from the grounds for a decision how the requirements of this provision have been met, and how comments and other input from the public have been evaluated.

The provisions of this section do not limit the right to public participation in decision-making processes pursuant to other legislation.

## **Chapter 6 Entry into force and amendments to other acts**

### **§ 21. Entry into force**

The Act enters into force from the date decided by the King.

### **§ 22. Amendments to other acts**

When this Act enters into force, the following amendments shall be made to other Acts ...

#### **External link:**

[Text of the law \(in Norwegian\)](#)