



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**An Information guide to the
Commission for Energy Regulation
(CER)**

**Prepared in accordance with
Section 15 of the
Freedom of Information Act, 1997
(amended 2003)**

Foreword

This manual is intended as a practical guide to the Commission for Energy Regulation (CER). It includes information about how the CER functions, the classes of records held and the types of information that are routinely made available.

All information in the manual is available on the Commissions website www.cer.ie and the printed version of the Section 15 manual are available by contacting info@cer.ie or writing to the CER's FOI Officer.

INTRODUCTION

The Freedom of Information (FOI) Act, 1997 (amended in 2003) establishes three statutory rights:

- a legal right for each person to access information held by public bodies
- a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading
- a legal right to obtain reasons for decisions affecting oneself

The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

This manual is prepared in accordance with the publication requirements set out in Section 15 and 16 of the Act.

FREEDOM OF INFORMATION

The Freedom of Information Act, 1997 and 2003 establishes a number of important legal rights for those seeking access to official information.

Statutory rights under the FOI Act:

- The right to access information held by public bodies
- The right to have official information relating to him/herself amended where it is incomplete, incorrect or misleading
- A right to obtain reasons for decisions affecting oneself

The FOI Act is designed to allow public access to information held by the Office that is **NOT** routinely available through other sources. Access to information under FOI is subject to certain exemptions and involves specific procedures and time limits.

Section 15 of the Freedom of Information Act, 1997

Section 16 of the Freedom of Information Act, 1997

HOW TO GET INFORMATION

Routinely Available Information

The CER currently makes information routinely available to the public in relation to its functions, activities and schemes. Such information will continue to be available informally without the need to use the FOI Act. This manual highlights, in relation to each of the Commission's activities, where information of this nature is available. General information is also available on the CER website - www.cer.ie or by contacting info@cer.ie.

The FOI Act allows public access to information held by the CER, which is **not** routinely available through other sources. Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits. This manual provides a guide to the structure of the Commission so as to help you access information under the FOI Act.

How to obtain Information under the FOI Act

Under the FOI Act, anyone is entitled to apply for access to information not otherwise publicly available. Each person has a right to:

- access records held by the organisation
- correction of personal information relating to oneself held by the organisation where it is inaccurate, incomplete or misleading
- access reasons for decisions made by the organisation directly affecting oneself

The following records come within the scope of the FOI Act:

- all records relating to personal information held by the Office irrespective of when created
- personnel records of staff with effect from 21st April, 1995 and those created prior to that date where being used or proposed to be used in a way which adversely affects or may affect the person involved
- all other records created from commencement date of 21st April, 1998
- any other records necessary to the understanding of a current record

Applications under the FOI Act – How to make a request.

All applications should be addressed to:

**Freedom of Information Officer,
Commission for Electricity Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.**

1. The application should be in writing and should indicate that the information is being sought under the Freedom of Information Act
2. As much detail as possible should be given to enable the CER to identify exactly what information is being requested.
3. If information is desired in a particular form i.e. photocopy, computer disk, etc. this should also be mentioned in your application.
4. A contact telephone number should be given so that the CER can make contact if there are any queries in relation to the request.

5. If you have difficulty in identifying the precise records that you require, the staff at the Commissions Office will be happy to assist you in preparing your request.

The Commission is obliged to acknowledge the FOI request within 2 weeks of receipt and to respond to the request within 4 weeks from the date of receipt.

RIGHTS OF REVIEW AND APPEAL

The Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where the Commission invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, forms of access etc may also be subject to appeal.

Internal Review

You may seek internal review of the initial decision, which will be carried out by an official of a higher grade than the official whose decision is being appealed if:

- you are dissatisfied with the initial response received ie. refusal of information, form of access, fees, etc
- you have not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

Requests for internal review should be addressed to:

Freedom of Information Officer,
Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.

Tel: 00 353 1 4000800
Fax: 00 353 1 4000850
Email info@cer.ie

A request for internal review must be submitted within 4 weeks of the initial decision. The Commission must complete the review within 3 weeks. Internal review must normally be completed before an appeal may be made to the Information Commissioner.

Review by the Information Commissioner

If still dissatisfied following completion of internal review, you may seek an independent review of the decision from the Information Commissioner. If you have not received a reply to your application for internal review within 3 weeks this is deemed to be a refusal and you may appeal the matter to the Information Commissioner.

Appeals in writing may be made directly to the Information Commissioner at the following address:

Office of the Information Commissioner,
18, Lower Leeson Street,
Dublin 2,
Ireland

Tel: 00 353 1 6785222
Fax: 00 353 1 6610570
Email foi@ombudsman.irlgov.ie
<http://www.irlgov.ie/oic>

FEES

The Appendix to this document contains details of fees that can be charged for Freedom of Information requests.

INTRODUCTION TO THE COMMISSION FOR ENERGY REGULATION (CER)

The Commission for Energy Regulation (“the Commission”) is the independent body responsible for the liberalisation of Ireland’s energy sector. We regulate the natural gas and electricity markets in Ireland and have been working since our establishment in 1999, towards progressive market reform and the development of greater levels of competition in these sectors. The Commission was established under the provisions of the Electricity Regulation Act 1999 and has taken on significant additional responsibilities since then, under various legislation. Responsibility for the regulation of the natural gas market was conferred upon the Commission under the Gas (Interim) Regulation Act 2002. Most recently, the Energy (Miscellaneous Provisions) Act 2006 added to the role and functions of the Commission, including providing for additional responsibilities in gas and electrical safety.

The duties, powers and functions of the CER are specified in the 1999 and 2002 Acts and the Commission is financed by means of a levy on energy undertakings.

Functions of the CER

The functions of the Commission have been built up over time, following the enactment of various pieces of legislation. Initially the Commission was responsible for regulation and reform of the electricity market only, including the licensing of new entrant generators and suppliers. In 2002, the Commission was also given statutory responsibility for regulation of the natural gas market, while various pieces of legislation have increased our functions in the areas of customer protection, licensing and gas and electricity safety.

The functions of the Commission can be summarised as follows:

- Ensuring sufficient capacity in the electricity and gas systems to satisfy reasonable demands for supply of natural gas and electricity;
- Protecting the interests of final customers including the disadvantaged, the elderly and those residing in rural areas;
- Promoting competition in supply of electricity and natural gas and electricity generation;

- Ensuring no unfair discrimination between applicants for or holders of licences, consents and authorisations or between them and State-owned operators;
- Promoting the continuity, security and quality of supplies and encouraging safety and efficiency in undertakings and by end users;
- Ensuring licence and authorisation holders are capable of financing their activities;
- Setting standards, enforcing compliance, settling disputes, controlling and monitoring performance and reporting regularly on these activities;
- Promoting research and the use of sustainable forms of energy that reduce or are free of greenhouse gas emissions as well as adopting measures to protect the natural environment in all the sectors' activities;
- Advising government on the development and regulation of the gas and electricity sectors;
- Regulating the activities of electrical contractors with respect to safety;
- Regulating the activities of natural gas undertakings and natural gas installers with respect to safety;
- Promoting the safety of natural gas customers and the public generally as respects the supply storage, transmission, distribution and use of natural gas;
- Establishing and implementing a natural gas safety framework.

Stakeholders

The CER has a wide range of stakeholders, including;

- energy customers (natural gas and electricity), ranging from domestic customers to large industrial players;
- customer representative groups such as IBEC, ISME, the Chamber of Commerce, the National Consumer Agency;
- energy market participants, including new entrants, potential new entrants and the incumbent operators in the two sectors;
- the national grid operators for electricity and gas, as well as the market operator (MO) for the SEM;
- the Minister for Communications, Energy and Natural Resources, the Department of Communications Energy and Natural Resources (DCENR), the Oireachtas, and political parties and representatives generally;
- A range of state bodies including Sustainable Energy Ireland (SEI), the Environmental Protection Agency (EPA), the Economic and Social

Research Institute (ESRI), the Department of the Environment and the Competition Authority;

- sectoral representative groups, including the Irish Wind Energy Association (IWEA) and Meitheal na Gaoithe;
- the European Commission and other energy regulators and policy makers in the EU, particularly the Northern Ireland Authority for Utility Regulation (NIAUR), the Department of Enterprise Trade and Investment (DETI) and Ofgem in the UK.
- the recently established SEM Committee which has responsibility for regulatory oversight of the SEM.

A particularly important relationship is that between the CER and the Northern Ireland Energy Regulator (NIAUR) as well as the energy sectors in Northern Ireland generally. This reflects the commitment by the governments of both jurisdictions towards continual all island energy market developments building upon the success of the SEM. In particular the Regulators and Governments have committed to examining the case for the development of an all island gas market.

ORGANISATIONAL STRUCTURE OF THE CER

Details of the organisational structure of the CER can be found on our website, www.cer.ie.

The Commission's functions and staff are currently organised into four business divisions. This structure has been implemented (November 2007), following the completion of the SEM (Single Electricity Market) Project.

The following is the divisional structure of the Commission;

- Operations and Electricity Markets Division
- Electricity Networks and Retail Division
- Gas Division
- Safety, Environment and Customer Affairs Division

1) Operations and Electricity Markets Division

The Operations and Electricity Markets Division is the unit within the Commission where regulation of the new SEM is primarily focussed. Given the cross jurisdictional nature of the SEM, various regulatory work-streams have been divided out between the two regulators. Within the Operations and Electricity Markets division, the Market Modelling team focus on modelling price scenarios and impacts of the SEM as well as having responsibility for the review and modification of the Trading and Settlement Code (TSC); the rules of the market which each participant must sign up to in order to participate in the SEM.

This Division is also responsible for monitoring security of supply in Ireland, licensing and monitoring new conventional generation and overseeing the implementation of the Commission's Asset Strategy Agreement with ESB Power Generation. This agreement which was signed in late 2006 requires ESB to reduce its share of the power generation market to 40% by 2010 through the closure and divestment of 1,500 MW of generating capacity. This process is well advanced.

This division also includes the Commission's operations teams. Operations includes Human Resources (HR), Finance, IT, Facilities and the Business Information Centre (BIC). These are essentially support functions to the policy teams of the Commission. The HR team is responsible for staff recruitment and retention as well as staff development. As well as traditional finance roles such as payroll and pensions, the Commission's

Finance team is also responsible for service procurement and for the Commission industry levy. The IT and Facilities department maintain and enhance the Commission's physical and virtual infrastructure while the BIC is primarily responsible for information and records management, business planning and press and media management.

2) Electricity Networks and Retail Division

This division is responsible for regulation of the remainder of the electricity supply chain in Ireland, that is the monopoly electricity networks businesses and the competitive retail or supply market.

The division has three teams. The electricity transmission team regulates the transmission system in Ireland and EirGrid as the Transmission System Operator (TSO). Since the establishment of the SEM, the transmission system in Ireland is now operated on an all island basis. The electricity distribution team is responsible for regulating the medium and lower voltage electricity network in Ireland, the distribution system. ESB Networks is licensed as Distribution System Operator (DSO) for Ireland.

The electricity retail team regulates ESB Customer Supply, the licensed public electricity supplier (PES). In addition the team also monitors competition in the retail electricity market and licences new entrant suppliers. The implementation of a smart metering project in Ireland will be a key feature of the electricity retail team's work.

The Electricity Networks and Retail Division will also be responsible for overseeing the further development of the East-West Interconnector project.

3) Gas Division

The Gas Division within the Commission regulates Bord Gáis Networks and Bord Gáis Energy Supply and oversees the development of the gas market in Ireland. Of key importance is the design and creation of an all island gas market. The Commission is currently working with NIAUR on developing an initial scope for an all island gas market project.

Key work areas in the networks part of this division include the Gas Code of Operations and analysis of network charges and tariffs. There is also likely to be a body of work associated with the regulation of the proposed LNG (Liquified Natural Gas) terminal on the Shannon estuary.

On the gas retail side, the Commission is responsible for overseeing the development of competition in the retail gas sector. The Gas Supply team also approves tariffs charged by Bord Gáis Energy Supply to their NDM (non daily metered) customers as well as overseeing the Regulated Tariff Formula (RTF) for larger gas customers.

The Commission has also set up a Projects Office to oversee the planning and management of three key pieces of work that the Commission will be involved in over the next few years – the development of an all island gas market, the Smart Metering project and the ongoing governance of the SEM through the structure of the SEM Committee.

4) Safety, Environment and Customer Affairs Division

The Commission has established a division which will focus exclusively on three areas of growing importance, electricity and gas safety, customer protection and environment & renewables.

The Commission's safety functions have been divided up into gas safety and electricity safety, to reflect the different requirements for the regulation of each area under the Energy (Miscellaneous Provisions) Act 2006. Safety will be a continuing priority for the Commission in the coming years.

Likewise customer protection deserves priority status. The energy markets are essentially driven by customer demand for electricity and gas. The Commission and all suppliers and network operators have a role to play in ensuring that customers receive fair treatment and are provided with all of the necessary information to make informed decisions. The Commission's Customer Care Team (CCT) is working to ensure this happens. In addition the CCT is also responsible for resolving complaints by electricity and gas customers against their supplier or network provider.

The Commission is also committed to developing Ireland's renewable resources and reducing the impact of the electricity and gas systems on the environment. The renewables and environment team is responsible for drafting and implementing policy in this area.

Classes of records held by the CER

- Employee Records/Personnel
- Health & Safety
- Recruitment
- Tenders and Procurement
- Correspondence
- Training
- Internal administration
- Internal policies and procedures
- Freedom of Information Act
- Licensee and other company files
- Legislation
- Press Releases / Press cuttings
- Annual Reports
- Library catalogues
- Brochures
- Consultation papers
- Decision papers
- Responses to consultations
- Information reports
- Technical Codes
- Revenue submissions

- Development plans
- Charging statements
- Forecast statements
- Agreements
- Disputes and complaints
- General correspondence
- Position papers

Mission Statement

The Mission Statement of the Commission is as follows:

In a world where energy supply and prices are highly volatile, the mission of the Commission, acting in the interests of consumers is to ensure that:

- the lights stay on
- the gas continues to flow
- the prices charged are fair and reasonable
- the environment is protected, and
- electricity and gas are supplied safely

Delivery of Service

We aim to provide a quality and efficient service to all of our stakeholders.

Full information on our service provisions can be found in our customer charter – please refer to our website for our Customer Charter.

Appendix A - Fees

Freedom of Information (Fees) Regulations 2003

Summary

Regulations have been made by the Minister for Finance prescribing fees for the purposes of section 47(6A) of the Freedom of Information Act 1997. The following fees will apply to FOI requests under section 7 of the FOI Act (requests for access to records) and applications under section 14 (internal review) and section 34 (review by Information Commissioner) received on or after **7 July 2003**:

Requests for records

- A standard application fee of **€15** must accompany an FOI request under section 7 for a record or records containing non-personal information..
- A reduced fee of **€10** applies if the person making such a request is covered by a medical card.
- The following requests/applications are exempt:

(a) a request under section 7 for a record or records containing only personal information related to the requester.

(b) an application under section 17 (right of amendment of records relating to personal information).

(c) an application under section 18 (right of person to information regarding acts of public bodies affecting the person).

Internal Review

- A standard fee of **€75** must accompany an application for internal review under section 14.
- A reduced fee of **€25** applies if the person bringing the application is a medical card holder or a dependant of a medical card holder.

The following internal review applications are exempt:

(a) an application in relation to a decision concerning records containing only personal information related to the applicant.

(b) an application in relation a decision under section 17 (right of amendment of records relating to personal information).

(c) an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).

(d) an application in relation to a decision to charge a fee or deposit, or a fee or deposit of a particular amount.

Review by Information Commissioner

- o A standard fee of **€150** must accompany applications to the Information Commissioner for review of decisions made by public bodies under section 34.
- o A reduced fee of **€50** applies if
 - (a) the person bringing the application is a medical card holder or a dependant of a medical card holder or
 - (b) the person is specified in section 29(2) i.e. a third party with the right to apply directly to the Information Commissioner where a public body decides to release their information on public interest grounds.
- o The following applications to the Information Commissioner are exempt:
 - (a) an application concerning records containing only personal information related to the applicant.
 - (b) an application in relation a decision under section 17 (right of amendment of records relating to personal information)
 - (c) an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
 - (d) an application in relation to a decision to charge a fee or deposit exceeding €25.00 under section 47 in respect of search and retrieval and photocopying of records (decisions in relation to the charging of fees or deposits for search and retrieval and/or photocopying of less than €25 are not subject to review by the Information Commissioner).
 - (d) an application in relation to a decision to charge a fee under section 47(6A), or a fee of a particular amount under section 47(6A), on the grounds that the records concerned do not contain only personal information related to the requester or the requester is not a medical card holder or a dependant of a medical card holder.

| Type of Request/Application | Standard Fee* | Reduced Fee * ** |
|---|----------------------|-------------------------|
| Request for a record | | |
| Initial Request | €15 | €10 |
| Internal Review | €75 | €25 |
| Review by Information Commissioner | €150 | €50 |
| Request for a record or containing personal information | No charge | No charge |
| Application under section | No charge | No charge |

| | | |
|---|-----------|-----------|
| 17 for amendment of a record containing incorrect, incomplete or misleading personal information | | |
| Application under section 18 for the reasons for a decision affecting the individual | No charge | No charge |

** Fee will not apply where a person appeals a decision to charge a fee or deposit, or a fee or*

deposit of a particular amount under section 47 of the FOI Act

*** Reduced fee will apply in respect of third parties who appeal a decision of a public body to release their information on public interest grounds*

Information Note

Freedom of Information (Fees) Regulations 2003

When do the regulations commence?

The regulations are effective as and from 7 July 2003 and apply to FOI requests and review applications received from that date.

What is the position in relation to requests or review applications received before that date?

Requests or review applications received prior to 7 July 2003 are unaffected.

Are the new fees additional to fees for search and retrieval and photocopying of records?

Yes. These fees are prescribed under section 47(6A) of the FOI Act and are additional to fees and deposits that can apply under section 47 in respect of search and retrieval and photocopying of records released to a requester.

What happens if a fee is not paid?

The request is liable to be refused under section 10 of the FOI Act on the grounds that a fee payable under section 47 has not been paid. However before refusing a request on these grounds, public bodies should give the requester the opportunity to proceed with the request.

The following paragraph is suggested for inclusion in acknowledgments issued in response to requests for non-personal information that are unaccompanied by the appropriate fee:

A fee of €15 is required before processing of your FOI request can begin. This fee can be paid by cheque, bank draft or order payable to [public body]. A reduced fee of €10 applies if you are covered by a medical card in which case you should supply details of the medical card registration number and issuing health board together with your consent to the verification of these details with the relevant health board.

What happens in the event of a dispute with a requester as to whether or not a request is for personal information?

If the dispute cannot be resolved, the requester should be informed of the decision that a fee is payable and advised of their right to apply for a review of that decision under section 14.

There is no charge for internal review applications in relation to decisions on charging of amounts of fees or deposits.

The request itself should be refused under section 10 on the grounds that a fee under section 47(6A) has not been paid. If the decision to charge a fee is overturned at internal review or subsequently by the Information Commissioner, the decision to refuse the request should be deemed to have been unjustified and the request should be reactivated with immediate effect.

How do public bodies establish if a requester is covered by a medical card?

While public bodies are encouraged to inform users of the Act of their entitlements, there is an onus on the requester both to claim medical card coverage when making a request and to provide appropriate evidence in support of such coverage. Evidence could include details of the medical card registration number, issuing health board and the consent of the person making the request to the verification of the details with the health board.

What if there is evidence to suggest that a third party is using a medical card holder to make a request on his or her behalf?

The regulations exclude from the definition of “medical card holder” and “dependant of medical card holder” *a person who is making a request on behalf of some other person who, in the opinion of the head, is seeking to avoid the payment of a standard fee.*

What happens in the event of disputes in relation to a medical card holder?

Where a requester purporting to be covered by a medical card has failed to establish that fact to the satisfaction of the head, h/she should be informed of the decision that the standard fee is payable and advised of their right to apply for a review of that decision under section 14.

There is no charge for internal review applications in relation to decisions on charging of fees or deposits.

The request itself should be refused under section 10 on the grounds that a fee of a particular amount payable under section 47(6A) has not been paid. If the decision to charge the standard fee is overturned at internal review or subsequently by the Information Commissioner, the request should be reactivated with immediate effect.

What is the position in relation to requests for a mixture of personal and non-personal information?

The exemption for records containing personal information (and for any subsequent review under section 14 or 34) applies to a request for a record or records containing *only* personal

information related to the requester. If a requester decides to proceed with a 'mixed' request, it is liable for the same fee as applies to requests for non-personal information.

Is there provision for refund of the new fees?

The regulations provide that a fee under section 47(6A) shall be refunded if the requester withdraws a request or an application for review in accordance with the relevant provisions of the Act (sections 7(8), 14(8) or 34(5)). Fees are not refundable if a decision is varied or annulled at internal or external review stage.

Will guidelines on all charges that apply under the FOI Act be issued?

Yes. A revised copy of the Short Guide to FOI, incorporating changes made by the FOI Amendment Act 2003, will be issued shortly. This includes a chapter on charges. A revised version of CPU Notice 11 (Charges) will also be issued. Further guidelines will be considered in the light of experience of the operation of these regulations.