

## IMPLEMENTING MEASURES TO ACHIEVE UK COMPLIANCE WITH THE UNECE AARHUS CONVENTION

<p><b>Preamble</b></p>	<p>The UK is fully supportive of the goals of the Convention, as laid out in the preamble section. It should be noted however, in relation to these paragraphs, that the UK submitted a declaration upon signing the Convention, which will be reiterated when ratifying. The declaration is as follows:</p> <p>“The United Kingdom understands the references in article 1 and the seventh preambular paragraph of this Convention to the "right" of every person "to live in an environment adequate to his or her health and well-being" to express an aspiration which motivated the negotiation of this Convention and which is shared fully by the United Kingdom. The legal rights which each Party undertakes to guarantee under article 1 are limited to the rights of access to information, public participation in decision-making and access to justice in environmental matters in accordance with the provisions of this Convention.”</p>
<p><b>Article 1 (Objective)</b></p>	<p>Implementing measures not required, however the UK’s declaration with regard to the Convention’s reference to ‘rights’ in relation to the environment (see above) should also be noted here.</p>
<p><b>Article 2 (Definitions)</b></p>	<p>Implementing measures not required</p>
<p><b>Article 3 (General Provisions)</b></p>	<p>We believe that existing domestic legislation enables the UK to ensure that members of the public and organisations thereof, can have sufficient involvement in environmental matters according to the provisions of this Article. Examples of the relevant legislation are:</p> <ul style="list-style-type: none"> <li>• The Environmental Information Regulations 1992, revised 1998 (and further revisions due in January 2005)</li> <li>• The Freedom of Information Act (effective as of 1 January 2005)</li> <li>• The Environmental Impact Assessment Regime</li> </ul> <p>Furthermore public authorities, including central government departments, regional and local bodies, have adopted codes of practice which govern how they interact with the public on environmental matters. Examples of relevant initiatives include:</p> <ul style="list-style-type: none"> <li>• Cabinet Office code of practice for public consultations</li> <li>• The Department for Environment, Food and Rural Affairs’ accessibility commitment</li> </ul>

	Education on environmental issues is also a key part of the national curriculum in schools and locally run awareness projects, such as those run by Local Councils, are common.
<b>Article 4 (Access to Environmental Information)</b>	The obligations under this Article fall within the competence of the European Community and therefore fall to it to meet. In 2003, the Community adopted Directive 2003/4/EC on public access to environmental information. Through doing so, the Community expects to meet these obligations and has created a Community obligation on the United Kingdom, in line with these elements of the Convention.
<b>Article 5 (Collection and Dissemination of Environmental Information)</b>	The obligations under this Article fall within the competence of the European Community and therefore fall to it to meet. In 2003, the Community adopted Directive 2003/4/EC on public access to environmental information. Through doing so, the Community expects to meet these obligations and has created a Community obligation on the United Kingdom, in line with these elements of the Convention.
	<u>Par 6, 7 and 8</u> Defra, the Advisory Committee on Consumer Products and the Environment, the Food Standards and others, provide information to the public with regard to product labelling, to enable the public to make informed environmental choices.
	<u>Par 9</u> The UK is supportive of ratification of the Protocol on Pollutant Release and Transfer Registers (PRTRs), at both national and EU level.
<b>Article 6 (Public Participation in Decisions on specific activities)</b>	The obligations under this Article fall within the competence of the European Community and therefore fall to it to meet. In 2003, the Community adopted Directive 2003/35/EC on public participation in respect of the drawing up of plans and programmes relating to the environment. Through doing so, the Community expects to meet these obligations and has created a Community obligation on the United Kingdom, in line with these elements of the Convention.

	<p><u>Par 11</u>  In March 2001 the European Community adopted Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC</p>
<p><b>Article 7 (Public Participation concerning plans, programmes and policies relating to the environment)</b></p>	<p>The obligations under this Article fall within the competence of the European Community and therefore fall to it to meet. In 2003, the Community adopted Directive 2003/35/EC on public participation in respect of the drawing up of plans and programmes relating to the environment. Through doing so, the Community expects to meet these obligations and has created a Community obligation on the United Kingdom, in line with these elements of the Convention.</p>
<p><b>Article 8 (Public Participation during the preparation of executive regulations and / or generally applicable legally binding normative instruments)</b></p>	<p>Public participation in the preparation of plans that affect the environment is current practice in the UK. The Cabinet Office has produced guidance and a code of practice which aims to increase the involvement of individuals and groups in public consultations, minimising the burden it imposes upon them and giving them enough time to respond. Procedures for public consultation in response to proposed government policies are consistent with the requirements of the Convention.</p> <p>Furthermore the new 'community strategies' which each local authority must prepare, contain legal obligations for public consultation.</p>
<p><b>Article 9 (access to justice)</b></p>	<p><u>Par 1</u>  This paragraph is technically contingent on the obligations under pillar I, and the adopted Directive 2003/4/EC on public access to environmental information (which includes provisions on access to justice).</p> <p>Our administrative and judicial systems are fully compliant with the requirements on access to review proceedings for members of the public. In addition, the option of providing access to administrative review via an alternative independent and impartial body established by law, would be covered by the possibility of appeals to the Information Commissioner.</p>

Par 2

This paragraph is technically contingent on the obligations under Article 6, and the adopted Directive 2003/35 on public participation in the drawing up of plans and programmes.

Some changes are required to the Scottish justice system, to meet the requirements of the Directive (based on the Convention), that non-governmental organisations should be deemed to have sufficient interest to access review proceedings in relation to decisions, acts or omissions, subject to the provisions of Article 6 of the Convention. These changes are in hand and will be completed by the Directive's transposition deadline of June 2005. However this does not affect our ability to ratify – the Directive has been adopted and is an implementing measure of the Community.

Par 3

This paragraph is currently a matter for individual Member State competence and is implemented at a national level. The civil justice systems in England, Wales, Northern Ireland and Scotland are fully compliant with the requirement that “where they meet the criteria laid down under national law, members of the public have access to administrative and judicial proceedings to challenge acts and omissions by private persons and public authorities” with regard to a breach of environmental law.

In relation to the caveat that a member of the public should “meet the criteria laid down under national law” – in England, Wales and Northern Ireland, such an applicant would need to demonstrate sufficient interest in the matter and an arguable case in law – although ‘sufficient interest’ is generally interpreted very widely. In Scotland, the applicant would have to demonstrate both “title and interest”, i.e. that they have some legal capacity and direct interest in the subject matter.

	<p><u>Par 4</u>  This paragraph concerns standards for the review proceedings provided for in paragraphs (1), (2) and (3), and in the first two cases is therefore covered by the two EC Directives on access to information and public participation.</p> <p>In respect of the obligations falling on the UK resulting from paragraph (3), the following points are relevant:</p> <ul style="list-style-type: none"> <li>• Any legal person has equal opportunity to access the courts throughout the UK, subject to the requirements laid down in national law</li> <li>• Any member of the public will be treated equally regardless of nationality, citizenship and domicile.</li> <li>• Court fees are reasonable. Certain applicants will be exempted from court fees, others will have court fees remitted on grounds of hardship, or will receive public funding.</li> <li>• Administrative review procedures are available that are free of charge – for example, appeals to the Information Commissioner</li> </ul>
<b>Articles 10 - 22</b>	<p><u>Par 5</u>  The UK has engaged in extensive activity to provide information to the public on accessing administrative and judicial review procedures, and to remove and consider how financial and other barriers to access to justice could be removed:</p> <ul style="list-style-type: none"> <li>• Information and guidance is provided by the Department for Constitutional Affairs (DCA) and the Legal Service Direct</li> <li>• Defra contributed funding and assistance to the publication “Handbook on Access to Justice” produced under the work of the Convention</li> <li>• Defra has commissioned research on the topic of “environmental justice”.</li> <li>• Defra provided support for the Magistrate Association’s publication “Costing the earth” – a toolkit for sentencers and other interested parties.</li> </ul>
	Implementing measures not required