
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 453

The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012

PART 5

INFORMATION AND PUBLICITY

Information

32.—(1) For the purpose of the discharge of its functions under these Regulations or the 2003 Landfill Regulations, the Department may, by notice in writing served on an enforcing authority, require the enforcing authority to furnish such information about the discharge of its functions as an enforcing authority as it may require.

(2) For the purposes of the discharge of their functions under these Regulations or the 2003 Landfill Regulations, the Department or an enforcing authority may, by notice in writing served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.

(3) For the purposes of this regulation, the discharge by the Department of an obligation of the United Kingdom under the European Union Treaties or any international agreement relating to the environment shall be treated as a function of the Department under these Regulations and the compilation of an inventory of emissions (whether or not from installations or mobile plant) shall be treated as a function of the chief inspector under these Regulations.

(4) The information which a person may be required to furnish by a notice served under paragraph (2) includes information on emissions which, although it is not in the possession of that person or would not otherwise come into the possession of that person, is information which it is reasonable to require that person to compile for the purpose of complying with the notice.

Public registers of information

33.—(1) Subject to regulations 34 and 35 and to paragraphs 2 to 5 of Schedule 16, it shall be the duty of each enforcing authority, in respect of installations or mobile plant for which it is the enforcing authority, to maintain a register containing the particulars described in paragraph 1 of that Schedule.

(2) Subject to paragraph (3), the register maintained by a district council shall also contain any particulars contained in any register maintained by the chief inspector relating to the operation of an installation or mobile plant in the district of the district council in relation to which the chief inspector has functions under these Regulations.

(3) The chief inspector shall furnish each district council with the particulars which are necessary to enable it to discharge its duty under paragraph (2).

(4) Where information of any description is excluded from any register by virtue of regulation 35, a statement shall be entered in the register indicating the existence of information of that description.

- (5) It shall be the duty of each enforcing authority—
 - (a) to secure that the registers maintained by them under this regulation are available, at all reasonable times, for inspection by the public free of charge; and
 - (b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.
- (6) Registers under this regulation may be kept in any form.

Exclusion from registers of information affecting national security

34.—(1) No information shall be included in a register maintained under regulation 33 if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which paragraph (1) applies, give to enforcing authorities directions—

- (a) specifying information, or descriptions of information, to be excluded from their registers; or
- (b) specifying descriptions of information to be referred to the Secretary of State for his determination,

and no information referred to the Secretary of State in pursuance of sub-paragraph (b) shall be included in any such register until the Secretary of State determines that it should be so included.

(3) The enforcing authority shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under paragraph (2).

(4) A person may, as respects any information which appears to him to be information to which paragraph (1) may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

- (a) he shall notify the enforcing authority that he has done so; and
- (b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.

Exclusion from registers of certain confidential information

35.—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under regulation 33, without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

- (a) is, in relation to the person, commercially confidential; and
- (b) is not required to be included in the register in pursuance of a direction under paragraph (7),

but information is not commercially confidential for the purposes of this regulation unless it is determined under this regulation to be so by the enforcing authority or, on appeal, by the Planning Appeals Commission.

(2) Where information is furnished to an enforcing authority for the purpose of these Regulations the person furnishing it may apply to the enforcing authority to have the information excluded from the register on the ground that it is commercially confidential (as regards that or another person) and the enforcing authority shall determine whether the information is or is not commercially confidential.

(3) Notice of determination under paragraph (2) shall be given to the applicant in writing within the period of 28 days beginning with the date of the application or within such longer period as may be agreed with the applicant.

(4) If the enforcing authority fails to give notice of its determination of an application under paragraph (2) within the period allowed by or under paragraph (3), the enforcing authority shall, if the applicant notifies the enforcing authority in writing that they treat the failure as such, be deemed to have determined at the end of that period that the information is not commercially confidential.

(5) Where it appears to an enforcing authority that any information which has been obtained by the enforcing authority under or by virtue of any provision of these Regulations and which is required to be included in the register unless excluded under this regulation might be commercially confidential, the enforcing authority shall (unless the information is the subject of an application under paragraph (2))—

- (a) give to the person to whom or to whose business it relates notice in writing that that information is required to be included in the register unless excluded under this regulation; and
- (b) give that person a reasonable opportunity—
 - (i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and
 - (ii) of making representations to the enforcing authority for the purpose of justifying any such objection,

and, if any representations are made, the enforcing authority shall, having taken the representations into account, give that person notice of its determination as to whether the information is or is not commercially confidential.

(6) Where, under paragraph (2) or (5), an enforcing authority determines that information is not commercially confidential—

- (a) the information shall not be entered in the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned or the determination is deemed to have been made under paragraph (4);
- (b) if that person before the end of that period appeals to the Planning Appeals Commission against the decision under regulation 31(1)(f), the information shall not be entered in the register until the end of the period of seven days following the day on which the appeal is finally determined or is withdrawn.

(7) The Department may give to the enforcing authority directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under regulation 33 notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this regulation at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded or at the expiry of such shorter period as may be specified in the notice of that determination for the purpose of this paragraph; but the person who furnished it may apply to the enforcing authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the enforcing authority shall determine whether or not that is the case.

(9) Paragraph (6) shall apply in relation to a determination under paragraph (8) as it applies in relation to a determination under paragraph (2) or (5).

(10) Information is, for the purposes of any determination under this regulation, commercially confidential, in relation to any individual or other person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or other person.