



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II U.K.

#### WASTE ON LAND

##### *Publicity*

#### 64 Public registers. E+W+S

[<sup>F1</sup>(1) Subject to sections 65 and 66 below, it shall be the duty of each waste regulation authority to maintain a register containing prescribed particulars of or relating to—

- (a) current or recently current licences (“licences”) granted by the authority;
- (b) current or recently current applications to the authority for licences;
- (c) applications made to the authority under section 37 above for the modification of licences;
- (d) notices issued by the authority under section 37 above effecting the modification of licences;
- (e) notices issued by the authority under section 38 above effecting the revocation or suspension of licences or imposing requirements on the holders of licences;
- (f) appeals under section 43 above relating to decisions of the authority;
- (g) certificates of completion issued by the authority under section 39(9) above;
- (h) notices issued by the authority imposing requirements on the holders of licences under section 42(5) above;
- (i) convictions of the holders of licences granted by the authority for any offence under this Part (whether in relation to a licence so granted or not);
- (j) the occasions on which the authority has discharged any function under section 42 or 61 above;
- (k) directions given to the authority under any provision of this Part by the Secretary of State;

[<sup>F2</sup>(1) .....

*Status: Point in time view as at 06/04/2008.*

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- (m) such matters relating to the treatment, keeping or disposal of waste in the area of the authority or any pollution of the environment caused thereby as may be prescribed;
- and any other document or information required to be kept in the register under any provision of this Act.
- (2) Where information of any description is excluded from any register by virtue of section 66 below, a statement shall be entered in the register indicating the existence of information of that description.
- [<sup>F3</sup>(2A) The Secretary of State may give to a waste regulation authority directions requiring the removal from any register of its of any specified information not prescribed for inclusion under subsection (1) above or which, by virtue of section 65 or 66 below, ought to be excluded from the register.]
- (3) For the purposes of subsection (1) above licences are “recently” current for the period of twelve months after they cease to be in force and applications for licences are “recently” current if they relate to a licence which is current or recently current or, in the case of an application which is rejected, for the period of twelve months beginning with the date on which the waste regulation authority gives notice of rejection or, as the case may be, on which the application is deemed by section 36(9) above to have been rejected.
- (4) It shall be the duty of each waste collection authority in England [<sup>F4</sup>or Wales]. . . to maintain a register containing prescribed particulars of such information contained in any register maintained under subsection (1) above as relates to the treatment, keeping or disposal of controlled waste in the area of the authority.
- [<sup>F5</sup>(5) The waste regulation authority in relation to England and Wales shall furnish any waste collection authorities in its area with the particulars necessary to enable them to discharge their duty under subsection (4) above.]
- (6) Each waste regulation authority and waste collection authority
- [<sup>F6</sup>(a)]shall secure that any register maintained under this section is open to inspection <sup>F7</sup>. . . by members of the public free of charge at all reasonable hours and
- [<sup>F6</sup>(b)]shall afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register
- [<sup>F6</sup>and, for the purposes of this subsection, places may be prescribed by the Secretary of State at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question.]
- (7) Registers under this section may be kept in any form.
- (8) In this section “prescribed” means prescribed in regulations by the Secretary of State.]

#### Textual Amendments

- F1** S. 64 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), regs. 73, 74(2), Sch. 21 para. 17, **Sch. 23** (with reg. 72, Sch. 4).
- F2** S. 64(1)(l) repealed (1.4.1996) by [1995 c. 25, s. 120\(3\)](#), **Sch.24** (with ss. 7(6), 115, 117); [S.I. 1996/186, art.3](#)

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- F3** S. 64(2A) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 82(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**
- F4** Words in s. 64(4) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 82(3)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**
- F5** S. 64(5) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 82(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**
- F6** Words in s. 64(6) inserted (21.9.1995 for limited purposes, 1.4.1996 for all other purposes) by 1995 c. 25, s. 120(1), **Sch. 22 para. 82(5)(a)(b)(c)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F7** Words in s. 64(6)(a) omitted (1.4.1996) by virtue of S.I. 1996/593, **reg. 3, Sch. 2 para.6**

#### Commencement Information

- I1** S. 64 wholly in force at 1.5.1994; s. 64 not in force at Royal Assent, see s. 164(3); s. 64(1)(4)(8) in force at 18.2.1993 by S.I. 1993/274, **art. 2(1)**; s. 64 in force in so far as not already in force at 1.5.1994 by S.I. 1994/1096, **art. 2(1)**

## 65 Exclusion from registers of information affecting national security. **E+W+S**

- [<sup>F8</sup>(1) No information shall be included in a register maintained under section 64 above (a “register”) 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 subsection (1) above applies, give to the authorities maintaining registers 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 paragraph (b) above shall be included in any such register until the Secretary of State determines that it should be so included.
- (3) An authority maintaining a register shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under subsection (2) above.
- (4) A person may, as respects any information which appears to him to be information to which subsection (1) above 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 authority concerned that he has done so; and
- (b) no information so notified to the Secretary of State shall be included in the register kept by that authority until the Secretary of State has determined that it should be so included.]

#### Textual Amendments

- F8** S. 65 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **regs. 73, 74(2), Sch. 21 para. 17, Sch. 23** (with **reg. 72, Sch. 4**).

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#### Modifications etc. (not altering text)

- C1** S. 65(1)(2)(4): functions exercisable concurrently (1.7.1999) by the Scottish Ministers and Ministers of the Crown after consultation with the Secretary of State by [S.I. 1999/1750](#), [art. 3](#), [Sch. 2](#)

#### Commencement Information

- I2** S. 65 wholly in force at 1.5.1994; s. 65 not in force at Royal Assent, see s. 164(3); s. 65(2) in force for certain purposes at 18.2.1993 by [S.I. 1993/274](#), [art. 2\(2\)](#); s. 65 in force in so far as not already in force at 1.5.1994 by [S.I. 1994/1096](#), [art. 2\(1\)](#)

## 66 Exclusion from registers of certain confidential information. **E+W+S**

[<sup>F9</sup>(1) No information relating to the affairs of any individual or business shall be included in a register maintained under section 64 above (a “register”), 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 him, commercially confidential; and
- (b) is not required to be included in the register in pursuance of directions under subsection (7) below;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by the authority maintaining the register or, on appeal, by the Secretary of State.

(2) Where information is furnished to an authority maintaining a register for the purpose of—

- (a) an application for, or for the modification of, a licence;
- (b) complying with any condition of a licence; or
- (c) complying with a notice under section 71(2) below;

then, if the person furnishing it applies to the authority to have the information excluded from the register on the ground that it is commercially confidential (as regards himself or another person), the authority shall determine whether the information is or is not commercially confidential.

(3) A determination under subsection (2) above must be made within the period of fourteen days beginning with the date of the application and if the authority fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to an authority maintaining a register that any information (other than information furnished in circumstances within subsection (2) above) which has been obtained by the authority under or by virtue of any provision of this Part might be commercially confidential, the authority shall—

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

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and, if any representations are made, the authority shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

- (5) Where, under subsection (2) or (4) above, an 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 twenty-one days beginning with the date on which the determination is notified to the person concerned;
  - (b) that person may appeal to the Secretary of State against the decision;
- and, where an appeal is brought in respect of any information, the information shall not be entered in the register [<sup>F10</sup>until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn].
- [<sup>F11</sup>(6) Subsections (2) and (8) of section 43 above shall apply in relation to appeals under subsection (5) above as they apply in relation to appeals under that section; but
- (a) subsection (2)(c) of that section shall have effect for the purposes of this subsection with the substitution for the words from “(which may” onwards of the words “(which must be held in private)”; and
  - (b) subsection (5) above is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).]
- (7) The Secretary of State may give to the authorities maintaining registers directions as to specified information, or descriptions of information, which the public interest requires to be included in the registers 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 section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to the authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the authority shall determine whether or not that is the case.
- (9) Subsections (5) and (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) or (4) above.
- (10) The Secretary of State may, by order, substitute for the period for the time being specified in subsection (3) above such other period as he considers appropriate.
- (11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.]

#### Textual Amendments

- F9** S. 66 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), regs. 73, 74(2), Sch. 21 para. 17, **Sch. 23** (with reg. 72, Sch. 4).
- F10** Words in s. 66(5) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 83(1)** (with ss. 7(6), 115, 117); [S.I. 1996/186, art.3](#)
- F11** S. 66(6) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 83(2)** (with ss. 7(6), 115, 117); [S.I. 1996/186, art.3](#)

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**Modifications etc. (not altering text)**

**C2** S. 66(5): power to delegate functions conferred (1.4.1996) by 1995 c. 25, s.114 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3

**Commencement Information**

**I3** S. 66 wholly in force at 1.5.1994; s. 66 not in force at Royal Assent, see s. 164(3); s. 66(7) in force for certain purposes at 18.2.1993 by S.I. 1993/274, art. 2(2); s. 66 in force in so far as not already in force at 1.5.1994 by S.I. 1994/1096, art. 2(1)

<sup>F12</sup> **67** ..... **E+W+S**

**Textual Amendments**

**F12** S. 67 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 84, Sch.24 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3

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