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STATUTORY INSTRUMENTS

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**1997 No. 2777**

**The Industrial Pollution Control (Northern Ireland) Order 1997**

*Publicity*

**Public registers of information**

**20.**—(1) It shall be the duty of each enforcing authority, as respects prescribed processes for which it is the enforcing authority, to maintain, in accordance with regulations made by the Department, a register containing prescribed particulars of or relating to—

- (a) applications for authorisations made to that authority;
- (b) the authorisations which have been granted by that authority or in respect of which the authority has functions under this Order;
- (c) variation notices, enforcement notices and prohibition notices issued by that authority;
- (d) revocations of authorisations effected by that authority;
- (e) appeals under Article 15;
- (f) convictions for such offences under Article 23(1) as may be prescribed;
- (g) information obtained or furnished in pursuance of the conditions of authorisations or under any provision of this Order;
- (h) directions given to the authority under any provision of this Order by the Department; and
- (i) such other matters relating to the carrying on of prescribed processes or any pollution of the environment caused thereby as may be prescribed;

but that duty is subject to Articles 21 and 22.

(2) The register maintained by a district council shall also contain prescribed particulars of such information contained in any register maintained by the chief inspector as relates to the carrying on in the district of the district council of prescribed processes in relation to which the chief inspector has functions under this Order; and the chief inspector shall furnish each district council with the particulars which are necessary to enable it to discharge its duty under this paragraph.

(3) Where information of any description is excluded from any register by virtue of Article 22, a statement shall be entered in the register indicating the existence of information of that description.

(4) The Department may give to enforcing authorities directions requiring the removal from any register of theirs of any specified information not prescribed for inclusion under paragraph (1) or (2) or which, by virtue of Article 22, ought to have been excluded from the register.

(5) The Secretary of State may give to enforcing authorities directions requiring the removal from any register of theirs of any specified information which by virtue of Article 21 ought to have been excluded from the register.

(6) It shall be the duty of each enforcing authority—

- (a) to secure that the registers maintained by them under this Article 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;

and, for the purposes of this paragraph, places may be prescribed at which any such registers or facilities as are mentioned in sub-paragraph (a) or (b) are to be available or afforded to the public in pursuance of the sub-paragraph in question.

(7) Registers under this Article may be kept in any form.

(8) In this Article “prescribed” means prescribed in regulations under this Article.

### **Exclusion from registers of information affecting national security**

**21.**—(1) No information shall be included in a register maintained under Article 20 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**

**22.**—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under Article 20, 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 paragraph (10);

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

(2) Where information is furnished to an enforcing authority for the purpose of—

- (a) an application for an authorisation or for the variation of an authorisation;
- (b) complying with any condition of an authorisation; or
- (c) complying with a notice under Article 19(2);

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 paragraph (2) must be made within the period of 14 days beginning with the date of the application and if the enforcing 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 enforcing authority that any information (other than information furnished in circumstances within paragraph (2)) which has been obtained by the authority under any provision of this Order 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 Article; and
- (b) give him 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 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, determine whether the information is or is not commercially confidential.

(5) Where, under paragraph (2) or (4), 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 21 days beginning with the date on which the determination is notified to the person concerned;
- (b) that person may appeal to the Department against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered in the register until the end of the period of 7 days following the day on which the appeal is finally determined or withdrawn.

(6) Where a person appeals to the Department under this Article, the Department shall—

- (a) determine the appeal; or
- (b) refer the appeal for determination to the Planning Appeals Commission; or
- (c) refer the appeal or any matter involved in the appeal to the Planning Appeals Commission and consider the report of the Commission before determining the appeal.

(7) Part II of Schedule 2 shall have effect where an appeal or any matter involved in an appeal is referred to the Planning Appeals Commission under paragraph (6)(b) or (c).

(8) Before determining an appeal in accordance with paragraph (6)(a), the Department may, if it thinks fit—

- (a) refer any matter involved in the appeal to such person as the Department may appoint for the purpose, with or without payment; or
- (b) cause the appeal to take or continue in the form of a hearing (which must be held in private),

and the Department shall act as mentioned in sub-paragraph (b) if a request is made by either party to the appeal to be heard with respect to the appeal.

(9) Provision may be made by the Department by regulations with respect to appeals under this Article; and in particular provision may be so made—

- (a) requiring appeals to be brought within such period as may be prescribed by, or determined under or in accordance with, the regulations;
- (b) as to the manner in which appeals are to be brought; and
- (c) as to the manner in which appeals are to be considered by the Department.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(10) The Department may give to the enforcing authorities directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under Article 20 notwithstanding that the information may be commercially confidential.

(11) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this Article at the expiry of the period of 4 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.

(12) Paragraphs (5) to (9) shall apply in relation to a determination under paragraph (11) as they apply in relation to a determination under paragraph (2) or (4).

(13) The Department may, by order, substitute for the period for the time being specified in paragraph (3) such other period as it thinks fit.

(14) Information is, for the purposes of any determination under this Article, 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.