



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART I

#### INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

##### *Publicity*

#### **20 Public registers of information.**

- (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 Secretary of State, 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 Part;
  - (c) variation notices, enforcement notices and prohibition notices issued by that authority;
  - (d) revocations of authorisations effected by that authority;
  - (e) appeals under section 15 above;
  - (f) convictions for such offences under section 23(1) below as may be prescribed;
  - (g) information obtained or furnished in pursuance of the conditions of authorisations or under any provision of this Part;
  - (h) directions given to the authority under any provision of this Part by the Secretary of State; 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 sections 21 and 22 below.
- (2) Subject to subsection (4) below, the register maintained by a local enforcing authority [<sup>F1</sup>in England and Wales] shall also contain prescribed particulars of such information contained in any register maintained by [<sup>F2</sup>the Environment Agency] as relates to the carrying on in the area of the authority of prescribed processes in relation to which

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[<sup>F2</sup>the Environment Agency] has functions under this Part; and [<sup>F2</sup>the Environment Agency] shall furnish each authority with the particulars which are necessary to enable it to discharge its duty under this subsection.

<sup>F3</sup>(3) .....

(4) Subsection (2) above does not apply to port health authorities but each local enforcing authority [<sup>F4</sup>in England and Wales] whose area adjoins that of a port health authority shall include corresponding information in the register maintained by it; and [<sup>F5</sup>the Environment Agency] shall furnish each such local enforcing authority with the particulars which are necessary to enable it to discharge its duty under this subsection.

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

(6) The Secretary of State may give to enforcing authorities directions requiring the removal from any register of theirs of any specified information not prescribed for inclusion under subsection (1) or (2) above or which, by virtue of section 21 or 22 below, ought to have been excluded from the register.

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

- (a) to secure that the registers maintained by them under this section 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.[<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.]

(8) Registers under this section may be kept in any form.

<sup>F7</sup>(9) .....

(10) In this section “prescribed” means prescribed in regulations under this section.

**Textual Amendments**

- F1** Words in s. 20(2) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 57(2)**(with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F2** Words in s. 20(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 57(2)**(with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F3** S. 20(3) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 57(3)**, **Sch.24**(with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F4** Words in s. 20(4) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 57(4)**(with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F5** Words in s. 20(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 57(4)**(with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F6** Words in s. 20(7) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 57(5)**(with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F7** S. 20(9) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 57(6)**, **Sch.24**(with ss. 7(6), 115); S.I. 1996/186, **art.3**

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## 21 Exclusion from registers of information affecting national security.

- (1) No information shall be included in a register maintained under section 20 above 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 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 paragraph (b) above 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 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 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.

### Modifications etc. (not altering text)

- C1 S. 21(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](#)
- C2 S. 21(3)(4) applied (S.) (7.1.2013) by [The Pollution Prevention and Control \(Scotland\) Regulations 2012](#) (S.S.I. 2012/360), regs. 1(2), [65\(5\)](#) (with reg. 71)

## 22 Exclusion from registers of certain confidential information.

- (1) No information relating to the affairs of any individual or business shall be included in a register maintained under section 20 above, 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 enforcing authority or, on appeal, by the Secretary of State.
- (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

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- (c) complying with a notice under section 19(2) above;  
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 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 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 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 subsection (2) or (4) above, an authority determines that information is not commercially confidential—
- (a) the information shall not be entered [<sup>F8</sup>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 [<sup>F9</sup>in the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn].
- [<sup>F10</sup>(6) Subsections (5) and (10) of section 15 above shall apply in relation to an appeal under subsection (5) above as they apply in relation to an appeal under that section, but—
- (a) subsection (5) 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 enforcing authorities directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under section 20 above 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

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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**

- F8** Words in s. 22(5)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 58(2)(a)**(with ss. 7(6), 115); **S.I. 1996/186, art.3**
- F9** Words in s. 22(5) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 58(2)**(with ss. 7(6), 115); **S.I. 1996/186, art.3**
- F10** S. 22(6) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22, para. 58(3)**(with ss. 7(6), 115); **S.I. 1996/186, art.3**

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

- C3** S. 22 applied (12.4.1999) by **S.I. 1999/743, reg. 21(4), Sch. 8 para. 14**
- C4** S. 22(5) Power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(iii)**(with ss. 7(6), 115); **S.I. 1996/186, art.3**

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