
STATUTORY INSTRUMENTS

2001 No. 880

The Biocidal Products Regulations 2001

PART IV

USE OF INFORMATION

Confidentiality

26.—(1) Information provided to the Ministers under these Regulations shall not be treated as relevant information for the purposes of section 28 of the 1974 Act.

(2) Subject to the following paragraphs of this regulation, where a person indicates to the Ministers in writing that information provided by him to them under these Regulations should be kept confidential because the disclosure of that information might harm his industrial and commercial position—

- (a) he shall provide to the Ministers full written justification for that indication; and
- (b) the Ministers shall decide which information shall be kept confidential on the basis of that justification.

(3) Information which a person has indicated should be kept confidential and in relation to which the Ministers have not made a decision under paragraph (2)(b) shall not be disclosed except—

- (a) to the Commission or to a competent authority;
- (b) where the information is provided in support of an application made under these Regulations, to the extent necessary to enable the Ministers to deal with the application in question.

(4) Where the Ministers have made a decision under paragraph (2)(b) that certain information shall not be kept confidential, that information shall not be disclosed until there has elapsed a period of 14 days following the day on which the Ministers informed the person providing the information of their decision except—

- (a) to the Commission or to a competent authority;
- (b) where the information is provided in support of an application made under these Regulations, to the extent necessary to enable the Ministers to deal with the application in question.

(5) A person who receives information by virtue of paragraph (3)(b), (4)(b) or (11)(b) shall not use that information except for the purposes of the Ministers.

(6) After a biocidal product has been authorised or registered under these Regulations, the Ministers shall not keep the information specified in Schedule 6 relating to that biocidal product confidential.

(7) If—

- (a) the applicant for the authorisation or registration of a biocidal product; or
- (b) the manufacturer or the importer of that biocidal product or an active substance contained in that biocidal product,

discloses any information relating to that biocidal product or that active substance which the Ministers have decided under paragraph (2)(b) shall be kept confidential, that applicant shall inform the Ministers accordingly, and such information shall no longer be treated as being confidential for the purposes of these Regulations.

(8) Subject to paragraph (9), where, pursuant to paragraph (2), a person has indicated that he has provided confidential information, he shall forthwith inform the Ministers in writing of any change in circumstances which may affect the justification given by him under paragraph (2)(a).

(9) Paragraph (8) shall not apply if the Ministers have informed the person in question that the information he has provided shall not be kept confidential.

(10) Where—

(a) the Ministers have decided to keep information confidential pursuant to paragraph (2)(b); and

(b) a person has informed them of a change in circumstances pursuant to paragraph (8),

after consulting that person as appropriate, the Ministers shall review whether the information in question should continue to be kept confidential and shall inform that person of the result of that review.

(11) If, following a review referred to in paragraph (10), the Ministers decide that the information in question shall not be kept confidential, that information shall not be disclosed until there has elapsed a period of 14 days following the day on which the Ministers informed the person providing the information of their decision except—

(a) to the Commission or a competent authority;

(b) where—

(i) the information is provided in support of an application made under these Regulations, and

(ii) the Ministers have not finally disposed of that application,

to the extent necessary to enable the Ministers to deal with the application.

(12) This regulation is without prejudice to the provisions of the Environmental Information Regulations 1992(1).