

SCHEDULES

SCHEDULE 3

Enforcement

Restrictions on disclosure of information

- 8.—(1) In this and the two following sub-paragraphs—
- (a) “relevant information” means information obtained by an inspector in pursuance of a requirement imposed under paragraph 2(2)(e) or (f); and
 - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following sub-paragraph, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding sub-paragraph shall not apply to—
- (a) disclosure of information to the Executive, a government department or any enforcement authority;
 - (b) without prejudice to head (a), disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions or under these Regulations;
 - (c) without prejudice to head (a), disclosure by the recipient of information to—
 - (i) an officer of a district council who is authorised by that council to receive it; or
 - (ii) a constable authorised by the Chief Constable to receive it; or
 - (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case.
- (4) In the preceding sub-paragraph any reference to the Executive, a government department or an enforcement authority includes respectively a reference to an officer of that body or authority (including in the case of an enforcement authority, any inspector appointed by it), and also, in the case of a reference to the Executive, includes a reference to—
- (a) a person performing any functions of the Executive on its behalf by virtue of Article 15(1)(a) of the 1978 Order;
 - (b) an officer of a body which is so performing any such functions; and
 - (c) an adviser appointed in pursuance of Article 15(1)(c) of the 1978 Order.
- (5) A person to whom information is disclosed in pursuance of sub-paragraph (3) shall not use the information for a purpose other than—
- (a) in a case falling within sub-paragraph (3)(a), a purpose of the Executive, of the government department, or of the enforcement authority in question in connection with these Regulations or with the relevant statutory provisions, as the case may be;
 - (b) in the case of information given to an officer of a district council, the purposes of the council in connection with the relevant statutory provisions or any statutory provision

whatsoever relating to working time, public health, public safety or the protection of the environment;

- (c) in the case of information given to a constable, the purposes of the police in connection with these Regulations, the relevant statutory provisions or any statutory provision whatsoever relating to working time, public health, public safety or the safety of the State.

(6) A person shall not disclose any information obtained as a result of the exercise of any power conferred by paragraph 2 (including in particular any information with respect to any trade secret obtained in any premises entered by virtue of any such power) except—

- (a) for the purposes of that person's functions;
- (b) for the purposes of any legal proceedings; or
- (c) with the relevant consent.

In this sub-paragraph "the relevant consent" means, in the case of information furnished in pursuance of a requirement imposed under paragraph 2, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

(7) Notwithstanding anything in the preceding sub-paragraph an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare or working time, give to such persons or their representatives the following descriptions of information, that is to say—

- (a) factual information obtained by the inspector as mentioned in that sub-paragraph which relates to those premises or anything which was or is therein or was or is being done therein; and
- (b) information with respect to any action which the inspector has taken or proposes to take in or in connection with those premises in the performance of the inspector's functions;

and, where an inspector does as aforesaid, the inspector shall give the like information to the employer of the first-mentioned persons.

(8) Notwithstanding anything in sub-paragraph (6), a person who has obtained such information as is referred to in that sub-paragraph may furnish to a person who appears to the person to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of the relevant facts observed by the person in the course of exercising any of the powers referred to in that sub-paragraph.