

SCHEDULE 8

Regulation 21(4)

Provision of information by the competent authority

1. The competent authority shall maintain a register containing the information comprised in—
 - (a) notifications to the competent authority under regulation 6;
 - (b) safety reports;
 - (c) notifications under regulation 16(2);
 - (d) communications under regulation 17(1)(a);and such a register is in this Schedule referred to as “the register”.
2. The competent authority may remove from the register information relating to an establishment—
 - (a) after the expiration of 5 years from the time the establishment ceases to be subject to these Regulations; or
 - (b) if it is of the opinion that for the past 5 years the information has not related to current major accident hazards at the establishment.
3. Where information of any description is excluded from the register by virtue of paragraphs 10 to 18, a statement shall be entered in the register indicating the existence of information of that description.
4. It shall be the duty of the competent authority—
 - (a) to secure that the register is 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.
5. The register may be kept in any form.
6. Information shall not be included in the 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.
7. The Secretary of State may, for the purpose of securing the exclusion from the register of information to which paragraph 6 applies, give to the competent authority directions—
 - (a) specifying information, or descriptions of information, to be excluded from the register; or
 - (b) specifying descriptions of information to be referred to the Secretary of State for his determination;and information referred to the Secretary of State in pursuance of sub-paragraph (b) shall not be included in the register until the Secretary of State determines that it should be so included.
8. The competent authority shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under paragraph 7.
9. A person may, as respects any information which appears to him to be information to which paragraph 6 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 competent authority that he has done so; and
 - (b) information so notified to the Secretary of State shall not be included in any such register until the Secretary of State has determined that it should be so included.

10. Information relating to the affairs of any individual or business shall not be included in the 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 or personally confidential; and
- (b) is not required to be included in the register in pursuance of directions under paragraph 15;

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

11. Where information is provided to the competent authority pursuant to a requirement imposed by or under these Regulations then, if the person providing it applies to the competent authority to have the information excluded from the register on the ground that it is commercially or personally confidential (as regards himself or another person), the competent authority shall determine whether the information is or is not commercially or personally confidential.

12. A determination under paragraph 11 must be made within the period of 28 days beginning with the date of the application and if the competent authority fails to make a determination within that period it shall be treated as having determined that the information is commercially or personally confidential.

13. Where, under paragraph 11, the competent authority determines that information is not commercially or personally 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.

14. Article 22(8) and (9) of the Industrial Pollution Control (Northern Ireland) Order 1997⁽¹⁾ and Regulations made under Article 22(9) of that Order shall have effect in relation to an appeal under paragraph 13 as they have effect in relation to an appeal under Article 22 of that Order, but as if any reference to an enforcing authority were a reference to the competent authority and as if any reference to the Department of the Environment (with the exception of the first reference in the said Article 22(9)) were a reference to the Department.

15. The Department may give to the competent authority directions as to specified information, or descriptions of information, which the public interest requires to be included in the register.

16. Information excluded from the register shall be treated as ceasing to be commercially confidential for the purposes of this Schedule at the expiry of the period of 5 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 competent authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the competent authority shall determine whether or not that is the case.

17. Paragraphs 13 and 14 shall apply in relation to a determination under paragraph 16 as they apply in relation to a determination under paragraph 11.

18. Information is, for the purposes of any determination under this Schedule, 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.

(1) S.I.1997/2777 (N.I. 18)

19. The Environment and Safety Information (Northern Ireland) Order 1993⁽²⁾ shall apply to a notice served under—

- (a) regulation 18(3) as it applies to a notice served under Article 24 of the 1978 Order; or
- (b) Article 23 of the 1978 Order in respect of a contravention of these Regulations,

as if the reference in the second column of Schedule 1 to the 1993 Order to the enforcing authority within the meaning of the 1978 Order by which the inspector who served the notice was appointed were a reference to the competent authority.

20. Any information other than that referred to in paragraph 1 and which has been received by the competent authority pursuant to a requirement imposed by or under these Regulations shall, to the extent that it is not information relating to the environment for the purposes of the Environmental Information Regulations (Northern Ireland) 1993⁽³⁾, be treated as being so for those purposes.

⁽²⁾ S.I. 1993/3159 (N.I. 14) as amended by S.I. 1998/2795 (N.I. 18)

⁽³⁾ S.R. 1993 No. 45 as amended by S.R. 1998 No. 238