



Environmental Protection Act 1990

1990 CHAPTER 43

PART VI

GENETICALLY MODIFIED ORGANISMS

Publicity

123 Exclusion from register of certain information.

- (1) No information shall be included in the register under section 122 above if and so long as, in the opinion of the Secretary of State, the inclusion of the information would be contrary to the interests of national security.
- (2) No information shall be included in the register if and so long as, in the opinion of the Secretary of State, it ought to be excluded on the ground that its inclusion might result in damage to the environment.
- (3) No information relating to the affairs of any individual or business shall be included in the register without the consent of that individual or the person for the time being carrying on that business, if the Secretary of State has determined that the information—
 - (a) is, in relation to him, commercially confidential; and
 - (b) is not information of a description to which subsection (7) below applies;unless the Secretary of State is of the opinion that the information is no longer commercially confidential in relation to him.
- (4) Nothing in subsection (3) above requires the Secretary of State to determine whether any information is or is not commercially confidential except where the person furnishing the information applies to have it excluded on the ground that it is (in relation to himself or another person) commercially confidential.
- (5) Where an application has been made for information to be excluded under subsection (3) above, the Secretary of State shall make a determination and inform the applicant of it as soon as is practicable.

Changes to legislation: Environmental Protection Act 1990, Section 123 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) Where it appears to the Secretary of State that any information (other than information furnished by the person to whom it relates) which has been obtained under or by virtue of any provision of this Part might be commercially confidential, the Secretary of State shall—
- (a) give to the person to whom or to whose business it relates notice that the information is required to be included in the register unless excluded under subsection (3) above; 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 Secretary of State for the purpose of justifying any such objection;
 and the Secretary of State shall take any representations into account before determining whether the information is or is not commercially confidential.
- (7) The prescribed particulars of or relating to the matters mentioned in section 122(1) (a), [F1(c)],(d) and (e) above shall be included in the register notwithstanding that they may be commercially confidential if and so far as they are of any of the following descriptions, namely—
- (a) the name and address of the person giving the notice or furnishing the information;
 - (b) [F2F3the general description] of any genetically modified organisms to which the notice or other information relates;
 - (c) [F4the location at any time of those organisms;]
 - (d) the purpose for which those organisms are being imported, acquired, kept, released or marketed (according to whichever of those acts the notice or other information relates);
 - (e) [F4results of any assessment of the risks of damage to the environment being caused by the doing of any of those acts;]
 - (f) notices under section 112(3), (4), (5) or (7) above;
- and the Secretary of State may by regulations prescribe any other description of information as information which the public interest requires to be included in the register notwithstanding that it may be commercially confidential.
- (8) Information excluded from the register under subsection (3) above shall be treated as ceasing to be commercially confidential for the purposes of that subsection at the expiry of a period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it or to whom or to whose business it relates may apply to the Secretary of State for the information to remain excluded on the ground that it is still commercially confidential.
- (9) The Secretary of State may by order substitute for the period for the time being specified in subsection (8) above such other period as he considers appropriate.

Textual Amendments

- F1** S. 123(7): "(c)," inserted (E.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **33(2)(a)**; (S.) (5.12.2002) by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 33(2)(a)**; (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 34(2)(a)**

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- F2** In s. 123(7)(b) the words "the general description" substituted (E.) (17.10.2002) for the words "the description" by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **33(2)(b)** and (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 34(2)(b)**
- F3** In s. 123(7)(b) the word "general" inserted (S.) (5.12.2002) after the word "the" where it first appears by [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 33(2)(b)**
- F4** S. 123(7)(c)(e) omitted (E.) (17.10.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **33(2)(c)**; (S.) (5.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/541\)](#), **reg. 33(2)(c)**; (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 34(2)(c)**

Modifications etc. (not altering text)

- C1** S. 123(3)-(6)(8): functions of the Scottish Ministers specified (3.5.2002) by [The Scotland Act 1998 \(Agency Arrangements\) \(Specification\) \(No. 2\) Order 2002 \(S.I. 2002/800\)](#), art. 2, **Sch.**

Commencement Information

- I1** S. 123 wholly in force; s. 123 not in force at Royal Assent, see s. 164(2)(3); s. 123(7)(9) in force at 1.4.1991, see [S.I. 1991/1042](#), art. 2; s. 123(1)-(6)(8) in force at 1.2.1993, see [S.I. 1992/3253](#), art. 3

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)