
DRAFT STATUTORY RULES OF NORTHERN IRELAND

2013 No.

The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013

PART 5

INFORMATION AND PUBLICITY

Exclusion from registers of certain confidential information

35.—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under regulation 33, 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 the person, commercially confidential; and

(b) is not required to be included in the register in pursuance of a direction under paragraph (7), but information is not commercially confidential for the purposes of this regulation unless it is determined under this regulation to be so by the enforcing authority or, on appeal, by the Planning Appeals Commission.

(2) Where information is furnished to an enforcing authority for the purpose of these Regulations the person furnishing it may apply to the enforcing authority to have the information excluded from the register on the ground that it is commercially confidential (as regards that or another person) and the enforcing authority shall determine whether the information is or is not commercially confidential.

(3) Notice of determination under paragraph (2) shall be given to the applicant in writing within the period of 28 days beginning with the date of the application or within such longer period as may be agreed with the applicant.

(4) If the enforcing authority fails to give notice of its determination of an application under paragraph (2) within the period allowed by or under paragraph (3), the enforcing authority shall, if the applicant notifies the enforcing authority in writing that they treat the failure as such, be deemed to have determined at the end of that period that the information is not commercially confidential.

(5) Where it appears to an enforcing authority that any information which has been obtained by the enforcing authority under or by virtue of any provision of these Regulations and which is required to be included in the register unless excluded under this regulation might be commercially confidential, the enforcing authority shall (unless the information is the subject of an application under paragraph (2))—

(a) give to the person to whom or to whose business it relates notice in writing that that information is required to be included in the register unless excluded under this regulation; and

(b) give that person 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 enforcing 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, give that person notice of its determination as to whether the information is or is not commercially confidential.

(6) Where, under paragraph (2) or (5), an enforcing authority determines that information is not commercially 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 or the determination is deemed to have been made under paragraph (4);
- (b) if that person before the end of that period appeals to the Planning Appeals Commission against the decision under regulation 31(1)(f), the information shall not be entered in the register until the end of the period of seven days following the day on which the appeal is finally determined or is withdrawn.

(7) The Department may give to the enforcing authority directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under regulation 33 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 regulation at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded or at the expiry of such shorter period as may be specified in the notice of that determination for the purpose of this paragraph; but the person who furnished it may apply to the enforcing authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the enforcing authority shall determine whether or not that is the case.

(9) Paragraph (6) shall apply in relation to a determination under paragraph (8) as it applies in relation to a determination under paragraph (2) or (5).

(10) Information is, for the purposes of any determination under this regulation, commercially confidential, in relation to any individual or other person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or other person.