
STATUTORY INSTRUMENTS

1997 No. 2777

The Industrial Pollution Control (Northern Ireland) Order 1997

Publicity

Exclusion from registers of certain confidential information

22.—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under Article 20, 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 confidential; and
- (b) is not required to be included in the register in pursuance of directions under paragraph (10);

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

(2) Where information is furnished to an enforcing authority for the purpose of—

- (a) an application for an authorisation or for the variation of an authorisation;
- (b) complying with any condition of an authorisation; or
- (c) complying with a notice under Article 19(2);

then, if the person furnishing it applies to the authority to have the information excluded from the register on the ground that it is commercially confidential (as regards himself or another person), the authority shall determine whether the information is or is not commercially confidential.

(3) A determination under paragraph (2) must be made within the period of 14 days beginning with the date of the application and if the enforcing authority fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to an enforcing authority that any information (other than information furnished in circumstances within paragraph (2)) which has been obtained by the authority under any provision of this Order might be commercially confidential, the authority shall—

- (a) give to the person to whom or whose business it relates notice that that information is required to be included in the register unless excluded under this Article; 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 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, determine whether the information is or is not commercially confidential.

(5) Where, under paragraph (2) or (4), an 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;
- (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.

(6) Where a person appeals to the Department under this Article, the Department shall—

- (a) determine the appeal; or
- (b) refer the appeal for determination to the Planning Appeals Commission; or
- (c) refer the appeal or any matter involved in the appeal to the Planning Appeals Commission and consider the report of the Commission before determining the appeal.

(7) Part II of Schedule 2 shall have effect where an appeal or any matter involved in an appeal is referred to the Planning Appeals Commission under paragraph (6)(b) or (c).

(8) Before determining an appeal in accordance with paragraph (6)(a), the Department may, if it thinks fit—

- (a) refer any matter involved in the appeal to such person as the Department may appoint for the purpose, with or without payment; or
- (b) cause the appeal to take or continue in the form of a hearing (which must be held in private),

and the Department shall act as mentioned in sub-paragraph (b) if a request is made by either party to the appeal to be heard with respect to the appeal.

(9) Provision may be made by the Department by regulations with respect to appeals under this Article; and in particular provision may be so made—

- (a) requiring appeals to be brought within such period as may be prescribed by, or determined under or in accordance with, the regulations;
- (b) as to the manner in which appeals are to be brought; and
- (c) as to the manner in which appeals are to be considered by the Department.

(10) The Department may give to the enforcing authorities directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under Article 20 notwithstanding that the information may be commercially confidential.

(11) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this Article at the expiry of the period of 4 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 authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the authority shall determine whether or not that is the case.

(12) Paragraphs (5) to (9) shall apply in relation to a determination under paragraph (11) as they apply in relation to a determination under paragraph (2) or (4).

(13) The Department may, by order, substitute for the period for the time being specified in paragraph (3) such other period as it thinks fit.

(14) Information is, for the purposes of any determination under this Article, 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.

Changes to legislation:

There are currently no known outstanding effects for the The Industrial Pollution Control (Northern Ireland) Order 1997, Section 22.