



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART I

#### INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

##### *Publicity*

#### **22 Exclusion from registers of certain confidential information.**

[<sup>F1</sup>(1) No information relating to the affairs of any individual or business shall be included in a register maintained under section 20 above, 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 subsection (7) below;

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

- (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 section 19(2) above;

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 subsection (2) above must be made within the period of fourteen 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.

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*Changes to legislation: Environmental Protection Act 1990, Section 22 is up to date with all changes known to be in force on or before 02 June 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*

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- (4) Where it appears to an enforcing authority that any information (other than information furnished in circumstances within subsection (2) above) which has been obtained by the authority under or by virtue of any provision of this Part 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 section; 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 subsection (2) or (4) above, an authority determines that information is not commercially confidential—
- (a) the information shall not be entered [<sup>F2</sup>in the register] until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned;
  - (b) that person may appeal to the Secretary of State against the decision;
- and, where an appeal is brought in respect of any information, the information shall not be entered [<sup>F3</sup>in the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn].
- <sup>F4</sup>(6) Subsections (5) and (10) of section 15 above shall apply in relation to an appeal under subsection (5) above as they apply in relation to an appeal under that section, but—
- (a) subsection (5) of that section shall have effect for the purposes of this subsection with the substitution for the words from “(which may” onwards of the words “(which must be held in private)”; and
  - (b) subsection (5) above is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).]
- (7) The Secretary of State 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 section 20 above 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 section at the expiry of the period of four 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.
- (9) Subsections (5) and (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) or (4) above.
- (10) The Secretary of State may, by order, substitute for the period for the time being specified in subsection (3) above such other period as he considers appropriate.

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- (11) Information is, for the purposes of any determination under this section, 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.]

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#### Textual Amendments

- F1** Ss. 1-28 repealed (1.4.2015 for S. for the repeal of ss. 1-19, 22-28) by [Pollution Prevention and Control Act 1999 \(c. 24\)](#), s. 7(3), [Sch. 3](#) (with s. 7(7)); S.S.I. 2015/74, art. 2(2)(b)
- F2** Words in s. 22(5)(a) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 58\(2\)\(a\)](#)(with ss. 7(6), 115); [S.I. 1996/186](#), [art.3](#)
- F3** Words in s. 22(5) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 58\(2\)](#)(with ss. 7(6), 115); [S.I. 1996/186](#), [art.3](#)
- F4** S. 22(6) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22](#), para. 58(3)(with ss. 7(6), 115); [S.I. 1996/186](#), [art.3](#)

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#### Modifications etc. (not altering text)

- C1** S. 22 applied (12.4.1999) by [S.I. 1999/743](#), reg. 21(4), [Sch. 8 para. 14](#)
- C2** S. 22(5) Power to delegate functions conferred (1.4.1996) by [1995 c. 25](#), s. 114(2)(a)(iii)(with ss. 7(6), 115); [S.I. 1996/186](#), [art.3](#)

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