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## STATUTORY INSTRUMENTS

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# 1997 No. 2778

## The Waste and Contaminated Land (Northern Ireland) Order 1997

### PART II

#### WASTE ON LAND

##### *Publicity*

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

**36.**—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under Article 34 (a “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 confidential; and
- (b) is not required to be included in the register in pursuance of directions under paragraph (9);

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

(2) Where information is furnished to the Department for the purpose of—

- (a) an application for, or for the modification of, a licence;
- (b) complying with any condition of a licence; or
- (c) complying with a notice under Article 44(1);

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

(3) A determination under paragraph (2) shall be made within the period of 14 days from the date of the application and if the Department 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 the Department that any information (other than information furnished in circumstances within paragraph (2)) which has been obtained by the Department under any provision of this Part might be commercially confidential, the Department 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 grounds that it is commercially confidential; and
  - (ii) of making representations to the Department for the purpose of justifying any such objection;

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**Changes to legislation:** *The Waste and Contaminated Land (Northern Ireland) Order 1997, Section 36 is up to date with all changes known to be in force on or before 17 January 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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and, if any representations are made, the Department shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(5) Where, under paragraph (2) or (4), the Department 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 from the date on which the determination is notified to the person concerned;

(b) that person may appeal to the Planning Appeals Commission 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 from the day on which the appeal is finally determined or withdrawn.

(6) Part II of Schedule 2 shall have effect with respect to appeals under paragraph (5).

(7) On receipt of an appeal under paragraph (5) the Planning Appeals Commission shall give notice of the appeal to the Department.

(8) Regulations may make provision with respect to appeals under this Article and in particular as to the period within which and the manner in which appeals are to be brought.

(9) The Department may specify information, or descriptions of information, which the public interest requires to be included in the registers notwithstanding that the information may be commercially confidential.

(10) 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 from the date of the determination under which it was excluded; but the person who furnished it may apply to the Department for the information to remain excluded from the register on the ground that it is still commercially confidential and the Department shall determine whether or not that is the case.

(11) Paragraphs (5) to (7) shall apply in relation to a determination under paragraph (10) as they apply in relation to a determination under paragraph (2) or (4).

(12) The Department may, by order, substitute for the period for the time being specified in paragraph (3) such other period as the Department considers appropriate.

(13) 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 interest of that individual or person.

**Changes to legislation:**

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

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

- art. 58(1A) inserted by [2011 c. 5 \(N.I.\) s. 8\(3\)](#)
- art. 70(2A)-(2C) inserted by [2011 c. 5 \(N.I.\) s. 9](#)