



# Planning (Hazardous Substances) (Scotland) Act 1997

## 1997 CHAPTER 10

### *Miscellaneous provisions*

#### **26 Temporary exemption directions.**

- (1) If it appears to the Secretary of State—
  - (a) either—
    - (i) that the community or part of it is being or is likely to be deprived of an essential service or commodity, or
    - (ii) that there is or is likely to be a shortage of such a service or commodity affecting the community or part of it, and
  - (b) that the presence of a hazardous substance on, over or under land specified in the direction, in circumstances such that hazardous substances consent would be required, is necessary for the effective provision of that service or commodity,he may direct that, subject to such conditions or exceptions as he thinks fit, the presence of the substance on, over or under the land is not to constitute a contravention of hazardous substances control so long as the direction remains in force.
- (2) A direction under this section—
  - (a) may be withdrawn at any time, and
  - (b) shall in any case cease to have effect at the end of the period of 3 months beginning with the day on which it was given, but without prejudice to the Secretary of State's power to give a further direction.
- (3) The Secretary of State shall send a copy of any such direction to the planning authority for the land.

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*Changes to legislation: There are currently no known outstanding effects for the Planning (Hazardous Substances) (Scotland) Act 1997, Cross Heading: Miscellaneous provisions. (See end of Document for details)*

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## 27 Registers etc.

- (1) Every planning authority shall keep, in such manner as may be prescribed, a register containing such information as may be so prescribed with respect to—
- (a) applications for hazardous substances consent made to that authority,
  - (b) applications under section 15(1) made to that authority,
  - (c) hazardous substances consent having effect by virtue of section 9, [F<sup>1</sup>10, 10A or 30D] with respect to land for which that authority is the planning authority,
  - (d) revocations or modifications of hazardous substances consent granted with respect to such land, and
  - (e) directions under section 26 sent to the authority by the Secretary of State,
- and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with.
- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

### Textual Amendments

- F1** Words in s. 27(1)(c) substituted (12.6.2006) by [The Planning and Compulsory Purchase Act 2004 \(Transitional Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/269\)](#), arts. 1(1), 5(3)

## 28 Health and safety requirements.

- (1) Nothing in—
- (a) any hazardous substances consent granted or deemed to be granted or having effect by virtue of this Act, or
  - (b) any hazardous substances contravention notice issued under section 22,
- shall require or allow anything to be done in contravention of any of the [F<sup>2</sup>relevant provisions] or any prohibition notice or improvement notice F<sup>3</sup>....
- (2) To the extent that such a consent or notice purports to require or allow any such thing to be done, it shall be void.
- (3) Where it appears to a planning authority who have granted, or are deemed to have granted, a hazardous substances consent or who have issued a hazardous substances contravention notice that the consent or notice or part of it is rendered void by subsection (2) the authority shall, as soon as is reasonably practicable, consult the [F<sup>4</sup>safety regulator] with regard to the matter.
- (4) If the [F<sup>5</sup>safety regulator advises] the authority that the consent or notice is rendered wholly void, the authority shall revoke it.
- (5) If [F<sup>6</sup>the safety regulator advises] that part of the consent or notice is rendered void, the authority shall so modify it as to render it wholly operative.
- [F<sup>7</sup>(6) In this section—
- “improvement notice” means a notice served under section 21 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) or given under paragraph 3 of Schedule 8 to the Energy Act 2013 (“the 2013 Act”);

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“prohibition notice” means a notice served under section 22 of the 1974 Act or given under paragraph 4 of Schedule 8 to the 2013 Act;

“the relevant provisions” means—

- (a) the relevant statutory provisions within the meaning of Part 1 of the 1974 Act; and
- (b) the relevant statutory provisions within the meaning of Part of the 2013 Act other than—
  - (i) the provisions of the Nuclear Safeguards Act 2000; and
  - (ii) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes;]

#### Textual Amendments

- F2** Words in s. 28(1) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 20(2)(a)** (with Sch. 4)
- F3** Words in s. 28(1) omitted (1.4.2014) by virtue of [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 20(2)(b)** (with Sch. 4)
- F4** Words in s. 28(3) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 20(3)** (with Sch. 4)
- F5** Words in s. 28(4) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 20(4)** (with Sch. 4)
- F6** Words in s. 28(5) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 20(5)** (with Sch. 4)
- F7** S. 28(6) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 20(6)** (with Sch. 4)

## 29 Fees.

- (1) The Secretary of State may by regulations make provision for fees of the prescribed amount in respect of applications for, or for the continuation of, hazardous substances consent—
  - (a) made to an urban development corporation to be paid to the corporation;
  - (b) referred to him under section 18 to be paid to him;
  - (c) deemed to have been made to him under section 133(7) of the principal Act by virtue of regulations made under section 23 to be paid to him.
- (2) Regulations made under this section may provide for—
  - (a) the transfer to the Secretary of State of any fee received by a planning authority in respect of an application referred to in paragraph (b) or (c) of subsection (1);
  - (b) the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by him;and the regulations may make different provision for different areas or for different cases or descriptions of cases.

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- (3) Section 252 of the principal Act applies to an application for the continuation of hazardous substances consent.

**Changes to legislation:**

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