

SCHEDULES

SCHEDULE 4

Article 132.

TRANSITIONAL PROVISIONS

1. Where by virtue of paragraph (1) of Article 12 of the Amendment Order an object or structure ceased to be treated as part of a listed building the transitional provisions in paragraph 1 of Schedule 2 to that Order shall, notwithstanding the repeal of that Schedule, continue to apply for the purposes of provisions of this Order as they applied for the purposes of the corresponding provisions of the Planning (Northern Ireland) Order 1972.

2. Any daily fine mentioned in this Order shall apply to every day after the coming into operation of Article 13 of the Amendment Order, notwithstanding that the offence began before.

3. Article 23 shall not apply in relation to any development which was begun before the coming into operation of Article 7 of the Amendment Order; and the provisions of Article 36(1) apply in determining for the purposes of this paragraph when development shall be taken to be begun.

4. —(1) Until the end of the transitional period—

(a) no offence is committed under Article 61; and

(b) no hazardous substances contravention notice may be issued, in relation to a hazardous substance which is on, over or under any land,

if the substance was present on, over or under the land at any time within the establishment period and—

(i) in a case in which at the commencement date notification in respect of the substance was required by any of the Notification Regulations, both the conditions specified in sub-paragraph (2) were satisfied; and

(ii) in a case in which at that date such notification was not so required, the condition specified in head (b) of that sub-paragraph is satisfied.

(2) The conditions mentioned in sub-paragraph (1) are—

(a) that notification required by the Notification Regulations was given before the commencement date; and

(b) that the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.

(3) Where a hazardous substance was present on, over or under any land at any time within the establishment period, hazardous substances consent may be claimed in respect of its presence.

(4) A claim shall be made in the prescribed form before the end of the transitional period and shall contain the prescribed information as to the presence of the substance during the establishment period and as to how and where it was kept and used during that period.

(5) Subject to sub-paragraphs (6) to (8), the Department shall be deemed to have granted any hazardous substances consent which is claimed under sub-paragraph (3).

(6) If at the commencement date notification in respect of the substance was required by regulation 3 or 5 of the Notification Regulations, hazardous substances consent is only to be deemed to be granted under this paragraph if notification in respect of the substance was given before that date in accordance with those regulations.

(7) If at the commencement date such a notification was not so required, hazardous substances consent is only to be deemed to be granted under this paragraph if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.

(8) If it appears to the Department that a claim for hazardous substances consent does not comply with sub-paragraph (4), it shall be the Department's duty, before the end of the period of two weeks from its receipt of the claim,—

- (a) to notify the claimant that in the Department's opinion the claim is invalid; and
- (b) to give him the Department's reasons for that opinion.

(9) Hazardous substances consent which is deemed to be granted under this paragraph is subject to such conditions as may be prescribed.

(10) In this paragraph—

“commencement date” means the date on which Article 53 comes into operation;

“the establishment period” means the period of 12 months immediately preceding the commencement date;

“established quantity” means, in relation to any land—

- (a) where before the commencement date there has been a notification in respect of a substance in accordance with any of the Notification Regulations—
 - (i) the quantity notified or last notified before the commencement date; or
 - (ii) a quantity equal to twice the quantity which was so notified or last notified before the start of the establishment period,

whichever is the greater;

- (b) where a notification was not required before that date by any of those regulations, a quantity exceeding by 50 per cent, the maximum quantity which was present on, over or under the land at any one time within the establishment period;

“Notification Regulations” means the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984;

“the transitional period” means the period of 6 months beginning with the commencement date.

5. The right of appeal under Articles 69 and 78 conferred on a person mentioned in paragraph (2) of each of those Articles shall apply only in relation to any notice (whenever issued) which is expressed to take effect after the coming into operation of Articles 15 and 16 of the Amendment Order.

6. Article 116 shall apply to any development carried out after the day on which the Amendment Order was made.

7. In this Schedule “the Amendment Order” means the Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990.