

SCHEDULE 3

ENFORCEMENT – MODIFICATIONS OF THE 2011 ACT

PART 3

SECTIONS OF THE 2011 ACT AS MODIFIED

Offence where hazardous substances contravention notice not complied with

147.—(1) Where, at any time after the end of the period for compliance with a hazardous substances contravention notice, any step required by the notice to be taken have not been taken, the person who is then the owner of the land and any person other than the owner who is in control of the land is in breach of the notice.

(2) Where the owner is in breach of a hazardous substances contravention notice that person shall be guilty of an offence.

(3) In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

(4) Omitted.

(5) Omitted.

(6) An offence under subsection (2) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the paragraph in question by reference to any period of time following the preceding conviction for such an offence.

(7) Where—

(a) a person charged with an offence under this section has not been served with a copy of the hazardous substances contravention notice; and

(b) the notice is not contained in the appropriate register kept under section 242,

it shall be a defence for that person to show that that person was not aware of the existence of the notice.

(8) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £100,000;

(b) on conviction on indictment, to a fine.

(9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.