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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 269**

**The Planning and Compulsory Purchase Act 2004  
(Transitional Provisions) (Scotland) Order 2006**

**Transitional provision- the hazardous substances Act**

- 5.—(1) The hazardous substances Act is amended as follows.
- (2) In section 4(1)(b) (hazardous substances: general), for “10 or 10A”, substitute “10, 10A or 30D”
- (3) In section 27(1)(c) (registers etc.), for “10 or 10A” substitute “10, 10A or 30D,”.
- (4) After section 30C insert—

**“Crown application: transitional**

**30D.**—(1) This section applies if at any time during the establishment period a hazardous substance was present on, over or under Crown land.

(2) The appropriate authority must make a claim in the prescribed form before the end of the transitional period.

(3) The claim must contain the prescribed information as to—

- (a) the presence of the substance during the establishment period; and
- (b) how and where the substance was kept and used.

(4) Unless subsection (5) or (7) applies, the hazardous substances authority is deemed to have granted the hazardous substances consent claimed in pursuance of subsection (2).

(5) This subsection applies if the hazardous substances authority think that a claim does not comply with subsection (3).

(6) If subsection (5) applies, the hazardous substances authority must, before the end of the period of two weeks starting with the date they received the claim—

- (a) notify the claimant that they think the claim is invalid; and
- (b) give their reasons.

(7) This subsection applies if at no time during the establishment period was the aggregate quantity of the substance equal to or greater than the controlled quantity.

(8) Hazardous substances consent which is deemed to be granted under this section is subject—

- (a) to the condition that the maximum aggregate quantity of the substance that may be present for the purposes of this subsection at any one time must not exceed the established quantity; and
- (b) to such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of consent.

(9) A substance is present for the purposes of subsection 8(a) if—

- (a) it is on, over or under land to which the claim for consent relates;

- (b) it is on, over or under land which is within 500 metres of it and is controlled by the Crown; or
- (c) it is in or on a structure controlled by the Crown any part of which is within 500 metres of it,

and in calculating whether the established quantity is exceeded a quantity of a substance which falls within more than one of paragraphs (a) to (c) must be counted only once.

(10) The establishment period is the period of 12 months ending on the day before the date of commencement of section 90(3) of the Planning and Compulsory Purchase Act 2004.

(11) The transitional period is the period of six months starting on the date of commencement of that section.

(12) The established quantity in relation to any land is the maximum quantity which was present on, over or under the land at any one time within the establishment period.”.