



Planning (Hazardous Substances) Act 1990

1990 CHAPTER 10

Control over presence of hazardous substances

4 Requirement of hazardous substances consent.

- (1) Subject to the provisions of this Act, the presence of a hazardous substance on, over or under land requires the consent of the hazardous substances authority (in this Act referred to as “hazardous substances consent”).
- (2) Subsection (1) does not apply if the aggregate quantity of the substance—
 - (a) on, over or under the land;
 - ^[F1](aa) on, over or under other land which is controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in paragraph (a) is used) forms with the land so mentioned a single establishment;
 - (b) on, over or under other land which is within 500 metres of ^[F2]the land mentioned in paragraph (a) and controlled by the same person; or
 - (c) in or on a structure controlled by the same person any part of which is within 500 metres of ^[F2]the land mentioned in paragraph (a)],is less than the quantity prescribed as the controlled quantity for that substance.
- ^[F3](2A) A quantity of a substance which falls within more than one paragraph of subsection (2) shall only be counted once.]
- ^[F4](3) The temporary presence of a hazardous ^[F4]substance while it is being transported from one place to another is not to be taken into account unless—
 - (a) it is unloaded; or
 - (b) it is present on, over or under land in respect of which there is a hazardous substances consent for any substance, or in respect of which (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance.]

Changes to legislation: Planning (Hazardous Substances) Act 1990, Cross Heading: Control over presence of hazardous substances is up to date with all changes known to be in force on or before 18 April 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

- (4) The Secretary of State may by regulations provide that hazardous substances consent is not required or is only required—
- (a) in relation to land of prescribed descriptions;
 - (b) by reason of the presence of hazardous substances in prescribed circumstances.
- (5) Regulations under this section may make different provision for different cases or descriptions of cases.

Textual Amendments

- F1** S. 4(2)(aa) inserted (20.4.1999) by S.I. 1999/981, reg. 2(2)(a)
F2 Words in s. 4(2)(b)(c) substituted (20.4.1999) by S.I. 1999/981, reg. 2(2)(b)(c)
F3 S. 4(2A) inserted (20.4.1999) by S.I. 1999/981, reg. 2(2)(d)
F4 S. 4(3) substituted (20.4.1999) by S.I. 1999/981, reg. 2(2)(e)

Modifications etc. (not altering text)

- C1** S. 4 Power to apply conferred (10.11.1993) by 1993 c. 28, ss. 171(4)(c); S.I. 1993/2762, art. 3

Commencement Information

- I1** S. 4 wholly in force at 1.6.1992; s. 4 in force for certain purposes at 11.3.1992 see S. I. 1992/725, art. 2, 3

5 Power to prescribe hazardous substances.

- (1) For the purposes of this Act the Secretary of State—
- (a) shall by regulations specify—
 - (i) the substances that are hazardous substances; and
 - (ii) the quantity which is to be the controlled quantity of any such substance; and
 - (b) may by regulations provide that, except in such circumstances as may be prescribed, all hazardous substances falling within a group specified in the regulations are to be treated as a single substance.
- (2) Regulations which—
- (a) are made by virtue of subsection (1)(a)(i); or
 - (b) are made by virtue of subsection (1)(a)(ii) and reduce the controlled quantity of a substance,
- may make such transitional provision as appears to the Secretary of State to be appropriate.
- (3) The power [^{F5}under section 40(5) for regulations under this section to make transitional provision] includes, without prejudice to its generality, power to apply sections 11 and 26 subject to such modifications as appear to the Secretary of State to be appropriate.
- (4) Regulations under this section may make different provision for different cases or descriptions of cases.

Changes to legislation: Planning (Hazardous Substances) Act 1990, Cross Heading: Control over presence of hazardous substances is up to date with all changes known to be in force on or before 18 April 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](#)

Textual Amendments

F5 Words in s. 5(3) substituted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 130(7), 255(3)(a)** (with s. 247)

Modifications etc. (not altering text)

C2 S. 5 Power to apply conferred (10.11.1993) by [1993 c. 28](#), **ss. 171(4)(c)**; [S.I. 1993/2762](#), **art.3**

Commencement Information

I2 S. 5 in force for certain purposes at 11.3.1992; s. 5 wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 2, 3

Changes to legislation:

Planning (Hazardous Substances) Act 1990, Cross Heading: Control over presence of hazardous substances is up to date with all changes known to be in force on or before 18 April 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.

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

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

- s. 3(4A) inserted by [2023 c. 55 Sch. 17 para. 4\(b\)](#)
- s. 9(2)(ca) inserted by [2023 c. 55 Sch. 6 para. 14](#)
- s. 10(4) inserted by [2023 c. 55 s. 124\(6\)](#)
- s. 20(4A) inserted by [2008 c. 29 Sch. 10 para. 26](#)
- s. 21(5A) inserted by [2008 c. 29 Sch. 10 para. 27](#)
- s. 37(3) inserted by [2008 c. 29 Sch. 10 para. 29](#)
- s. 37(5) inserted by [2023 c. 55 s. 124\(7\)\(b\)](#)
- Sch. para. 2(4A) inserted by [2008 c. 29 Sch. 10 para. 30\(2\)](#)
- Sch. para. 2(9) inserted by [2008 c. 29 Sch. 10 para. 30\(3\)](#)
- Sch. para. 3(4A)(4B) inserted by [2008 c. 29 Sch. 10 para. 30\(4\)](#)
- Sch. para. 6(1A) inserted by [2008 c. 29 Sch. 10 para. 30\(6\)](#)