

SCHEDULES

SCHEDULE 10

LISTED BUILDINGS, CONSERVATION AREAS AND HAZARDOUS SUBSTANCES - SCOTLAND

The 1972 Act

11 After section 97B there is inserted—

“97BA Variation of hazardous substances contravention notices

- (1) A planning authority may waive or relax any requirement of a hazardous substances contravention notice issued by them and, in particular, may extend any period specified in accordance with section 97B(5)(b) of this Act in the notice.
- (2) The powers conferred by subsection (1) of this section may be exercised before or after the notice takes effect.
- (3) The planning authority shall, immediately after exercising those powers, give notice of the exercise to every person who has been served with a copy of the hazardous substances contravention notice or would, if the notice were re-issued, be served with a copy of it.

97BB Further provision as to rights of entry in relation to hazardous substances control

- (1) The provisions of this section and of section 97BC of this Act apply, in place of the provisions of section 266 of this Act, to rights of entry exercised under section 265 of this Act in relation to applications for hazardous substances consent and hazardous substances control.
- (2) If the sheriff is satisfied—
 - (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 265 of this Act; and
 - (b) that—
 - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
 - (ii) the case is one of urgency,he may issue a warrant authorising any person duly authorised in writing to enter the land.
- (2) For the purposes of subsection (2)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (3) A warrant authorises entry on one occasion only and that entry must be—

Status: This is the original version (as it was originally enacted).

- (a) within one month from the date of the issue of the warrant; and
- (b) at a reasonable hour, unless the case is one of urgency.

**97BC Rights of entry in relation to hazardous substances control:
supplementary provisions**

- (1) A person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 265 or 97BB of this Act (referred to in this section as “a right of entry”)—
 - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
 - (b) may take with him such other persons as may be necessary; and
 - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State; and section 168 of this Act shall apply in relation to compensation under this subsection as it applies in relation to compensation under Part VIII of this Act.
- (4) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.
- (5) Subsection (4) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.
- (6) A person who is guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
- (7) The authority of the appropriate Minister shall be required for the carrying out of works in exercise of a power conferred under section 265(8) of this Act if—
 - (a) the land in question is held by statutory undertakers; and
 - (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.
- (8) Section 213(1) of this Act applies for the purposes of subsection (7) of this section as it applies for the purposes of section 266(6)(b) of this Act.”