



Planning (Hazardous Substances) (Scotland) Act 1997

1997 CHAPTER 10

Obtaining hazardous substances consent

10 Deemed hazardous substances consent: government authorisation.

(1) Where—

- (a) the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers who are not a local authority, and
- (b) the development would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent,

the department may, on granting that authorisation, also direct that hazardous substances consent for that development shall be deemed to be granted subject to such conditions (if any) as may be specified in the directions.

- (2) On granting a consent under section 36 of the ^{M1}Electricity Act 1989 in respect of any operation or change of use that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the Secretary of State may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the directions.

[^{F1}(2A) On making an order under section 1 of the Transport and Works (Scotland) Act 2007 which includes any provision that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the Scottish Ministers may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the directions.]

[^{F2}(2B) On making an order granting development consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.]

Changes to legislation: There are currently no known outstanding effects for the Planning (Hazardous Substances) (Scotland) Act 1997, Section 10. (See end of Document for details)

- [^{F3}(3) Before giving a direction under any of subsections (1) to (2B), the person having power to give the direction must consult the Health and Safety Commission.]
- (4) For the purposes of this section development shall be taken to be authorised by a government department if—
- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment,
 - (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development,
 - (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose,
 - (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable, or
 - (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,
- and references in this section to the authorisation of a government department shall be construed accordingly.
- (5) The provisions of this Act (except section 20) shall apply in relation to any hazardous substances consent deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 18.
- (6) A [^{F4}person] shall, as respects any hazardous substances consent deemed to be granted by virtue of directions [^{F5}given by the person] under this section, send to the planning authority concerned any such information as appears to be required by them for the purposes of a register under section 27.

Textual Amendments

- F1** S. 10(2A) inserted (28.12.2007) by [The Transport and Works \(Scotland\) Act 2007 \(Consents under Enactments\) Regulations 2007 \(S.S.I. 2007/569\)](#), regs. 1, **4(a)**
- F2** S. 10(2B) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 62(2)** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F3** S. 10(3) substituted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 62(3)** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F4** Word in s. 10(6) substituted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 62(4)(a)** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F5** Words in s. 10(6) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 62(4)(b)** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)

Marginal Citations

- M1** 1989 c.29.

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