



# Planning (Hazardous Substances) (Scotland) Act 1997

## 1997 CHAPTER 10

### *Obtaining hazardous substances consent*

#### **9 Deemed hazardous substances consent: established presence**

- (1) Hazardous substances consent deemed to be granted by a planning authority under section 38 of the Housing and Planning Act 1986 (under which hazardous substances consent is deemed to be granted in certain circumstances where a hazardous substance was present before 1st May 1993) shall continue to have effect notwithstanding the repeal of that section and shall be deemed to be granted by the authority under this section.
- (2) Hazardous substances consent which is deemed to be granted under this section is subject to—
  - (a) the condition that the maximum aggregate quantity of the substance that may be present—
    - (i) on, over or under the land to which the claim relates,
    - (ii) on, over or under other land which is within 500 metres of it and controlled by the same person, or
    - (iii) in or on a structure controlled by the same person any part of which is within 500 metres of it,at any one time shall not exceed the established quantity, and
  - (b) such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of that consent.
- (3) The provisions of this Act (except section 20) shall apply in relation to any hazardous substances consent deemed to be granted under this section as if it had been granted by the planning authority on an application to them.
- (4) In this section “established quantity” means, in relation to any land—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) where before 1st May 1993 there was a notification in respect of a substance in accordance with any of the Notification of Installations Handling Hazardous Substances Regulations 1982—
  - (i) the quantity notified or last notified before that date, or
  - (ii) a quantity equal to twice the quantity which was so notified or last notified before the start of the period of 12 months immediately preceding that date,whichever is the greater;
- (b) where a notification was not required before that date by any of those Regulations, a quantity exceeding by 50 per cent. the maximum quantity which was present on, over or under the land at any one time within that period.