
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 108 of the Planning Act (Northern Ireland) 2011 (the “2011 Act”) provides that the presence on, over or under land, of a hazardous substance equal to or in excess of the controlled quantity (as specified by regulations) requires the consent of the council.

These regulations specify the substances which are hazardous substances for the purposes of the 2011 Act and the controlled quantities of those substances. They also lay down the procedure for applications for consent and the determination of applications.

In addition they make provision for hazardous substances contravention notices, specify matters to be included in such notices and apply certain provisions of the 2011 Act with modifications to appeals against such notices, penalties for non-compliance, works required by and the effect of such notices.

The contents of the regulations are as follows—

Regulation 3 with Schedule 2 specifies the substances which are hazardous substances and the controlled quantities of those substances.

Regulation 4 specifies certain exemptions from the need for hazardous substances consent.

Regulations 5-8 deal with applications for consent, advertisement of notices of such applications, certificates to accompany applications and representations to be taken into account.

Regulation 9 deals with persons who are to be treated as in actual possession of land.

Regulations 10-12 deal with consultations in respect of application for consent, determination of such application and notification of decisions.

Regulation 13 deals with applications to the Department for hazardous substances consent to execute works without compliance with conditions previously attached.

Regulation 14 deals with the notice to be served on the applicant where the council considers that section 114 of the 2011 Act (call in of certain applications for hazardous substances consent to the Department) applies.

Regulations 15 deals with applications by councils for hazardous substances consent.

Regulations 16-18 deal with enforcement of the hazardous substances provisions, i.e., hazardous substances contravention notices and apply, with modifications, certain provisions of the 2011 Act to appeals against, and to the effect of, such notices.

Regulation 19 sets out how electronic communications should be dealt with.

Regulation 20 deals with revocations.

Schedule 1 prescribes application forms and notices and certificates required in connection with such applications.

Schedule 2 lists the substances which are to be regarded as hazardous substances for the purposes of the 2011 Act and the quantities of those substances which are to be the controlled quantities.

Schedule 3 Parts 1 and 2 list provisions of the 2011 Act and modifications of those provisions which are applied for the purposes hazardous substances control. Part 3 sets out those provisions as modified under section 147 of the 2011 Act (as applied and modified) where a person is in breach of a hazardous substances contravention notice he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100,000, or on conviction on indictment to a fine.

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

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from the Department of the Environment, Causeway Exchange, 1-7 Bedford Street, Town Parks, Belfast, BT2 7EG or accessed at www.doeni.gov.uk.

The Explanatory Memorandum is available alongside the Regulations on the government's website www.legislation.gov.uk