

SCHEDULES

SCHEDULE 13

Section 144.

AMENDMENTS OF HAZARDOUS SUBSTANCES LEGISLATION

PART I

ENGLAND AND WALES

- 1 The Planning (Hazardous Substances) Act 1990 shall be amended as provided in this Part of this Schedule.
- 2 (1) Section 2 (appropriate Minister to be hazardous substances authority for land used or to be used by statutory undertakers) shall be omitted.
(2) In section 7(3), for the words from “means” to “with” in the third place it occurs there shall be substituted the words “means consultations with the Health and Safety Executive and with”.
(3) In section 10(2), for the words from the beginning to “3” there shall be substituted the words “A hazardous substances authority”.
(4) In section 28(1)—
 - (a) in paragraph (a), for the words following the word “consent” there shall be substituted the words “made to that authority”;
 - (aa) to applications under section 17(1) made to that authority;”;
and
 - (b) after paragraph (d), there shall be inserted the following words—

“; and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with.”
- (5) In section 29, in subsection (3) and (4), for the words “appropriate body” there shall be substituted the words “Health and Safety Executive”.
(6) In section 38(5) for the words “1 to 3” there shall be substituted “1, 3”.
(7) In section 39(1), in the definition of “hazardous substances authority”, for the word “to”, in the second place it occurs, there shall be inserted the word “and”.
- 3 In section 7(1)(a) (applications for consent), after the word “applications” there shall be inserted the words “under this Act”.
- 4 In section 11 (deemed hazardous substances consent in transitional cases)—
 - (a) in subsection (2) for the words “immediately before the relevant date” there shall be substituted the words “while it was so present”; and

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- (b) in subsection (7), in paragraph (a), at the beginning there shall be inserted the words “to the condition that” and, for paragraphs (b) and (c), there shall be substituted the words “, and
- (b) to such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of that consent.”
- 5 In section 12 (deemed consent: government authorisation), at the end there shall be added the following subsection—
- “(6) A government department or the Secretary of State shall, as respects any hazardous substances consent deemed to be granted by virtue of directions under this section, send to the hazardous substances authority concerned any such information as appears to be required by them for the purposes of a register under section 28.”
- 6 In section 13 (applications for hazardous substances consent in place of subsisting consent subject to conditions), subsection (7) shall be omitted.
- 7 In section 22 (validity of decisions as to applications), in subsection (4), for the words “1971 Act” there shall be substituted the words “principal Act”.
- 8 In section 25(1)(c) (provisions of principal Act capable of application to hazardous substances contravention notices), after “184,” there shall be inserted “186,”.
- 9 Before section 27 there shall be inserted the following section—

“26A Fees for consent applications

- (1) Provision may be made by regulations for the payment of a fee of the prescribed amount to a hazardous substances authority in respect of an application for, or for the continuation of, hazardous substances consent.
- (2) Regulations under this section may provide for the payment to the Secretary of State of a fee of the prescribed amount in respect of any application which is, by virtue of regulations under section 25, deemed to have been made for hazardous substances consent.
- (3) Regulations under this section may provide—
- (a) for the transfer of prescribed fees received by a hazardous substances authority in respect of any application which is referred to the Secretary of State under section 20;
- (b) for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by the Secretary of State;
- and the regulations may make different provision for different areas or for different cases or descriptions of cases.”
- 10 In section 303(6) of the Town and Country Planning Act 1990 (meaning of “Planning Acts” for purposes of fees chargeable under that section), at the end there shall be inserted the words “or the Planning (Hazardous Substances) Act 1990.”)

PART II

SCOTLAND

- 11 (1) The Town and Country Planning (Scotland) Act 1972 shall be amended as provided in this paragraph.
- (2) Section 56B (appropriate Minister to be planning authority in respect of hazardous substances in relation to land used or to be used by statutory undertakers) shall be omitted.
- (3) In section 56D(1)(a) (applications for consent), after the word “applications” there shall be inserted the words “under this Act”.
- (4) In section 56D(5) for the words from “means” to “with” in the third place it occurs there shall be substituted the words “means consultations with the Health and Safety Executive and with”.
- (5) After section 56D there shall be inserted the following section—

“56DA Fees

- (1) The Secretary of State may by regulations make provision for fees of the prescribed amount in respect of applications for, or for the continuation of, hazardous substances consent—
- (a) made to an urban development corporation under section 56A(2) above to be paid to the corporation;
 - (b) referred to him under section 32 above as having effect by virtue of section 56F below to be paid to him;
 - (c) deemed to have been made to him under section 85(7) below by virtue of regulations made under section 97B(10) below to be paid to him.
- (2) Regulations made under this section may provide for—
- (a) the transfer to the Secretary of State of any fee received by a planning authority in respect of an application referred to in paragraph (b) or (c) of subsection (1) above;
 - (b) the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by him;
- and the regulations may make different provision for different areas or for different cases or descriptions of cases.”
- (6) In section 56E(5) for the words “a planning authority other than the appropriate Minister” there shall be substituted the word “they”.
- (7) In section 56G (deemed consent: government authorisation), at the end there shall be added the following subsection—
- “(5) A government department or the Secretary of State shall, as respects any hazardous substances consent deemed to be granted by virtue of directions 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 56N.”

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

- (8) In section 56H (applications for hazardous substances consent in place of subsisting consent subject to conditions) subsection (5) shall be omitted.
- (9) In section 56N(1)—
- (a) in paragraph (a), for the words following the word “consent” there shall be substituted the words “made to that authority;
 - (aa) to applications under section 56K(2) above made to that authority;” and
 - (b) after paragraph (d), there shall be inserted the following words—

“, and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with.”
- (10) In section 56O, in subsections (2) and (3), for the words “appropriate body” there shall be substituted the words “Health and Safety Executive”.
- (11) In section 97B(10)(c) (hazardous substances contravention notices), after “89A” there shall be inserted “and 166”.
- 12 (1) Section 38 of the Housing and Planning Act 1986 (transitional provisions) shall be amended as provided in this paragraph.
- (2) In subsection (4), for the words “immediately before the commencement date” there shall be substituted the words “while it was so present”.
- (3) In subsection (9)—
- (a) for the words “subject to the conditions that— (a)” there shall be substituted the words “subject to—
 - (a) the condition that”;
 - (b) for paragraphs (b) and (c) there shall be substituted—

“(b) such other conditions (if any) as are prescribed, by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, for the purposes of this section and are applicable in the case of that consent”.
- 13 In section 87 of the Local Government, Planning and Land Act 1980 (fees for planning applications etc.), at the end there shall be inserted the following subsection—
- “(9) Without prejudice to the generality of subsection (1) above, the reference in that subsection to an application for any consent includes, in relation to a planning authority in Scotland, an application under section 56K(2) of the Town and Country Planning (Scotland) Act 1972 for the continuation of hazardous substances consent.”