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STATUTORY INSTRUMENTS

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**1991 No. 1220**

**The Planning(Northern Ireland) Order 1991**

**PART VI**

**ENFORCEMENT**

*Hazardous substances*

**Hazardous substances contravention notice**

**81.**—(1) Subject to paragraph (2), where it appears to the Department that there is or has been a contravention of hazardous substances control, it may issue a hazardous substances contravention notice if it considers it expedient to do so having regard to any material consideration.

(2) The Department shall not issue a hazardous substances contravention notice where it appears to the Department that a contravention of hazardous substances control can be avoided only by the taking of action amounting to a breach of a statutory duty.

(3) In this Order “hazardous substances contravention notice” means a notice—

- (a) specifying an alleged contravention of hazardous substances control; and
- (b) requiring such steps as may be specified in the notice to be taken to remedy the contravention.

(4) A copy of a hazardous substances contravention notice shall be served—

- (a) on the owner and on the occupier of the land to which it relates;
- (b) on any person other than the owner or occupier who appears to the Department to be in control of that land; and
- (c) on such other persons as may be prescribed.

(5) A hazardous substances contravention notice shall also specify—

- (a) a date not less than 28 days from the date of service of copies of the notice as the date on which it is to take effect;
- (b) in respect of each of the steps required to be taken to remedy the contravention of hazardous substances control, the period from the notice taking effect within which the step is to be taken.

(6) Where the Department issues a hazardous substances contravention notice the steps required by the notice may, without prejudice to the generality of paragraph (3)(b), if the Department thinks it expedient, include a requirement that the hazardous substance be removed from the land.

(7) Where a notice includes such a requirement, it may also contain a direction that at the end of such period as may be specified in the notice any hazardous substances consent for the presence of the substance shall cease to have effect or, if it relates to more than one substance, shall cease to have effect so far as it relates to the substance which is required to be removed.

(8) The Department may withdraw a hazardous substances contravention notice (without prejudice to its power to issue another) at any time before it takes effect.

(9) If the Department does so, it shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(10) The Department shall by regulations provide for—

- (a) appeals to the planning appeals commission against hazardous substances contravention notices;
- (b) the persons by whom, grounds upon which and time within which such an appeal may be brought;
- (c) the application to such appeals, subject to such modifications as the regulations may specify, of any of the provisions of Articles 69 to 71.

(11) If any person appeals against a hazardous substances contravention notice, the notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(12) The Department may by regulations—

- (a) specify matters which are to be included in hazardous substances contravention notices, in addition to those which are required to be included in them by this Article;
- (b) direct that any of the provisions of Articles 72 to 76 and Article 67 of the Planning (Northern Ireland) Order 1972 shall have effect in relation to hazardous substances contravention notices subject to such modifications as it may specify in the regulations;
- (c) make such other provision as it considers necessary or expedient in relation to hazardous substances contravention notices.