

SCHEDULE 3

ENFORCEMENT – MODIFICATIONS OF THE 2011 ACT

PART 2

EFFECT OF HAZARDOUS SUBSTANCES CONTRAVENTION NOTICES ETC.

<i>Provisions of the 2011 Act Applied</i>	<i>Modifications</i>
Section 146 (execution and costs of works required by enforcement notice)	
Subsection (1)	For the words “an enforcement notice” substitute “a hazardous substances contravention notice”.
Subsection (2)	For the words “an enforcement notice” substitute “a hazardous substances contravention notice” and for the words “breach of planning control” in both places where they occur substitute “contravention of hazardous substances control”.
Subsections (3) to (9)	None
Section 147 (offence where enforcement notice not complied with)	For subsection (1) substitute—
Subsection (1)	“(1) Where, at any time after the end of the period for compliance with a hazardous substances contravention notice, any steps required by the notice to be taken have not been taken, the person who is then the owner of the land and any person other than the owner who is in control of the land is in breach of the notice.”
Subsection (2)	For the words “the owner of the land” substitute “a person” and for the words “an enforcement notice” substitute “a hazardous substances contravention notice”.
Subsection (3)	None
Subsection (4)	Omit
Subsection (5)	Omit
Subsection (6)	Omit the words “or (5)”
Subsection (7)	For the words “enforcement notice” substitute “hazardous substances contravention notice.”

**Status:** This is the original version (as it was originally made).

Subsection (8)	None
Subsection (9)	None
Section 148 (effect of planning permission, etc., on enforcement or breach of condition notice)	For paragraph (1) substitute— “(1) Where after the service of a copy of a hazardous substances contravention notice, hazardous substances consent is granted for the presence of a hazardous substance on, over or under land to which the notice relates, the notice shall cease to have effect so far as inconsistent with that consent.”
Subsection (1)	
Subsection (2)	Omit
Subsection (3)	For the words “an enforcement notice or breach of condition notice” substitute “a hazardous substances contravention notice”.
Section 149 (enforcement notice to have effect against subsequent development)	For Section 149 substitute— “(1) Compliance with a hazardous substances contravention notice shall not discharge that notice.  (2) Without prejudice to subsection (1), where a provision of a hazardous substances contravention notice requires a hazardous substance to be removed from the land to which the notice relates, the presence on, over or under that land of a quantity of that substance equal to or exceeding its controlled quantity at any time after the substance has been removed in compliance with the hazardous substances contravention notice, shall be in contravention of that notice.  (3) Without prejudice to subsection (1), where a provision of a hazardous substances contravention notice requires the quantity of a hazardous substance on, over or under the land to which the notice relates to be reduced below a specified quantity (being greater than the controlled quantity), the presence on, over or under that land of a quantity of that substance equal to or in excess of the specified quantity at any time after the quantity of that substance has

been reduced below the specified quantity in compliance with the hazardous substances contravention notice, shall be in contravention of that notice.

(4) Without prejudice to subsection (1), where a provision of a hazardous substances contravention notice requires steps to be taken to remedy a failure to comply with a condition subject to which a hazardous substances consent was granted, after those steps have been taken no further steps shall be taken which would constitute a breach of that condition, and the taking of such further steps shall be in contravention of that notice.

(5) Sections 146 and 147 shall apply to the contravention of a hazardous substances contravention notice to which this section applies as if the period for compliance with the notice had expired on the date the contravention took place, but a person authorised in writing by the council shall not enter the land under section 146(1) without, at least 28 days before entry, serving on the owner or occupier of the land a notice of that person's intention to do so."