
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 179

The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000

Transitional provisions

3.—(1) For the purposes of the transition to the provisions of these Regulations, the Act shall be amended as follows.

(2) In section 4(1)(b) (hazardous substances consent: general), for “or 10” substitute “ , 10 or 10A ”.

(3) After section 10, insert—

“10A Deemed hazardous substances consent: established presence

(1) Where a hazardous substance was present on, over or under any land at any time within the establishment period, for which hazardous substances consent was not required during that period, hazardous substances consent may be claimed in respect of its presence.

(2) A claim shall be made on Form 12 (as set out in Schedule 2 to the Regulations) before the end of the transitional period and shall contain the information specified in regulation 15 of the Regulations.

(3) Subject to subsections (4) and (5), the planning authority shall be deemed to have granted any hazardous substances consent which is claimed under subsection (1).

(4) Hazardous substances consent is only to be deemed to be granted under this section if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.

(5) If it appears to the planning authority that a claim for hazardous substances consent does not comply with subsection (2), it shall be their duty, before the end of the period of two weeks from their receipt of the claim—

- (a) to notify the claimant that in their opinion the claim is invalid; and
- (b) to give their reasons for that opinion.

(6) Hazardous substances consent which is deemed to be granted under this section is subject—

- (a) to 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 for the consent relates;
 - (ii) on, over or under other land controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in sub-paragraph (i) is used), forms with the land so mentioned a single establishment;
 - (iii) on, over or under other land which is within 500 metres of the land mentioned in sub-paragraph (i) and controlled by the same person; or

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(iv) in or on a structure controlled by the same person any part of which is within 500 metres of the land mentioned in sub-paragraph (i),

at any one time shall not exceed the established quantity and in calculating the established quantity a quantity of a substance which is present under more than one sub-paragraph in this subsection shall be counted only once; and

(b) to the conditions set out in Schedule 3 to the Regulations.

(7) In this section and in section 10B–

“establishment period” means the period of 12 months immediately preceding the relevant date;

“established quantity” means, in relation to any land, the maximum quantity which was present on, over or under the land at any one time within the establishment period;

“the Regulations” means the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 ^{M1};

“the relevant date” means the date on which the Planning (Control of Major -Accident Hazards) (Scotland) Regulations 2000 came into force;

“the transitional period” means the period of 6 months beginning with the relevant date.

10B Transitional exemptions

(1) No offence is committed under section 21, and no hazardous substances contravention notice may be issued in relation to a hazardous substance which is on, over or under any land, if–

(a) the substance was present on, over or under the land at any time within the establishment period and was not a substance or quantity of substance for which hazardous substances consent was required before the relevant date; and

(b) the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.

(2) This section shall have effect until the end of the transitional period.”.

(4) In section 27(1)(c) (registers etc.), for “or 10” substitute “ , 10 or 10A ”.

Marginal Citations

M1 [S.I. 1993/323](#), amended by [S.I. 1994/2567](#) and [1996/252](#).

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