

## SCHEDULES

### SCHEDULE 7

Sections 33 and 37.

#### HAZARDOUS SUBSTANCES : CONSEQUENTIAL AMENDMENTS

##### PART I

###### ENGLAND AND WALES

###### *Radioactive Substances Act 1960 (c.34)*

- 1 The following paragraph shall be inserted after paragraph 8A of Schedule 1 to the Radioactive Substances Act 1960 (duty of public and local authorities not to take account of any radioactivity in performing their functions)—
- “8AA Sections 58B to 58M and 101B of the Town and Country Planning Act 1971.”.

###### *Town and Country Planning Act 1971 (c.78)*

- 2 In subsection (3) (action on the part of the Secretary of State that may be questioned in legal proceedings) of section 242 of the Town and Country Planning Act 1971, the following paragraph shall be inserted after paragraph (d)—
- “(dd) any decision by the Secretary of State relating to an application for hazardous substances consent;”.
- 3 In subsection (2)(a) of section 266 of that Act (orders which, in relation to Crown land, may only be made with consent of appropriate authority)—
- (a) after " 5 IB " there shall be inserted " 58H " ; and
- (b) for " or 96 " there shall be substituted " 96 or 101B "
- 4 Section 269 of that Act (application to Isles of Scilly) shall have effect as if sections 58B to 58N and 101B were included among the provisions specified in Part III of Schedule 21 (provisions that may be applied to Isles as if they were a district).
- 5 The following section shall be inserted after section 271 of that Act—

#### **“271A Application to certain hazardous substances authorities of provisions as to hazardous substances control.**

- (1) The provisions of this Act relating to hazardous substances shall have effect subject to such exceptions and modifications as may be prescribed in relation to granting hazardous substances consent for authorities who are hazardous substances authorities by virtue of section 1A of this Act.
- (2) Subject to the provisions of section 58F of this Act, any such regulations may in particular provide for securing—

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- (a) that any application by such an authority for hazardous substances consent in respect of the presence of a hazardous substance on, over, or under land shall be made to the Secretary of State and not to the hazardous substances authority ;
- (b) that any order or notice authorised to be made, issued or served under those provisions shall be made, issued or served by the Secretary of State and not by the hazardous substances authority.”

6 In section 280 of that Act (rights of entry)—

- (a) the following subsection shall be inserted after subsection (1) —
  - “(1A) Any person duly authorised in writing by the Secretary of State or by a hazardous substances authority may at any reasonable time enter any land for the purpose of surveying it in connection with—
    - (a) any application for hazardous substances consent ;
    - (b) any proposal to issue a hazardous substances contravention notice.”;
- (b) at the end of subsection (4) there shall be added the words " and any person duly authorised in writing by the Secretary of State or by a hazardous substances authority may at any reasonable time enter any land for the purpose of ascertaining whether an offence appears to have been committed under section 58K of this Act. " ;
- (c) the following subsection shall be inserted after subsection (6) —
  - “(6A) Subsection (6) above shall have effect for the purposes of a claim for compensation made by virtue of section 58H(8) or 58J(12) of this Act as if a reference to a local planning authority were a reference to a hazardous substances authority.”; and
- (d) in subsection (8), after the word " section " there shall be inserted the words " or a hazardous substances contravention notice has been issued ".

7 In section 290(1) of that Act (Interpretation)—

- (a) the following shall be inserted after the definition of " conservation area " —
  - “" contravention of hazardous substances control " has the meaning assigned to it by section 58K(2) of this Act;”;
- (b) the following shall be inserted after the definition of " the Greater London development plan " —
  - “" hazardous substances authority " is to be construed in accordance with sections 1A and 1B of this Act;”
  - “" hazardous substances consent" means consent required by section 58B of this Act;”
  - “" hazardous substances contravention notice " has the meaning assigned to it by section 101B(3) of this Act;”; and
- (c) the following shall be inserted after the definition of " tree preservation order " —
  - “" urban development area " and " urban development corporation " have the same meaning as in Part XVI of the Local Government, Planning and Land Act 1980 ;”.

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*Town and Country Planning Act 1984 (c.10)*

- 8 In section 1 of the Town and Country Planning Act 1984 (applications in anticipation of disposal of Crown interest)—
- (a) in subsection (1)(a), after the words "listed building consent " there shall be inserted the words " , hazardous substances consent " ; and
  - (b) the following subsection shall be inserted after subsection (3)—
    - “(3A) Any hazardous substances consent granted by virtue of this section shall apply only—
    - (a) to the presence of the substance to which the consent relates after the land in question has ceased to be Crown land ; and
    - (b) so long as that land continues to be Crown land, to the presence of the substance by virtue of a private interest in the land.”.

*Gas Act 1986 (c.44.)*

- 9 In sub-paragraph (1)(xxiv) of paragraph 2 of Schedule 7 to the Gas Act 1986 (enactments for the purposes of which a public gas supplier is deemed to be a statutory undertaker and his undertaking a statutory undertaking)—
- (a) after " sections " there shall be inserted " 1B, " ; and
  - (b) after " 49," there shall be inserted " 58F, ".

**PART II**

SCOTLAND

*Radioactive Substances Act 1960 (c.34)*

- 1 The following paragraph shall be inserted after the entry relating to the Sewerage (Scotland) Act 1968 in Part II of the first Schedule to the Radioactive Substances Act 1960 (duty of public and local authorities not to take account of any radioactivity in performing their functions)—
- “17A Sections 56A to 56N and 97B of the Town and Country Planning (Scotland) Act 1972.”.

*Town and Country Planning (Scotland) Act 1972 (c.52)*

- 2 In subsection (3) (action on the part of the Secretary of State that may be questioned in legal proceedings) of section 231 of the Town and Country Planning (Scotland) Act 1972, the following paragraph shall be inserted after paragraph (d)—
- “(dd) any decision by the Secretary of State relating to an application for hazardous substances consent;”.
- 3 In subsection (2)(a) of section 253 of that Act (orders which, in relation to Crown land, may only be made with consent of appropriate authority)—
- (a) after " 49B " there shall be inserted " 56J " ; and
  - (b) for " or 92 " there shall be substituted " 92 or 97B ".
- 4 The following section shall be inserted after section 257 of that Act—

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**“257A Application to planning authorities of provisions as to hazardous substances control.**

- (1) The provisions of this Act relating to hazardous substances shall have effect subject to such exceptions and modifications as may be prescribed in relation to hazardous substances consent for planning authorities.
- (2) Subject to the provisions of section 56G of this Act, any such regulations may in particular provide for securing—
  - (a) that any application by such an authority for hazardous substances consent in respect of the presence of a hazardous substance on, over or under such land shall be made to the Secretary of State and not to the planning authority ;
  - (b) that any order or notice authorised to be made, issued or served under those provisions shall be made, issued or served by the Secretary of State and not by the planning authority.”.

5 In section 265 of that Act (rights of entry)— (a) the following subsection shall be inserted after subsection (1)

“(1A) Any person duly authorised in writing by the Secretary of State or by a planning authority may at any reasonable time enter any land for the purpose of surveying it in connection with—

- (a) any application for hazardous substances consent ;
  - (b) any proposal to issue a hazardous substances contravention notice.”;
- (b) the following subsection shall be inserted after subsection (4)—

“(4A) Any person duly authorised in writing by the Secretary of State or by a planning authority may at any reasonable time enter any land for the purpose of ascertaining whether an offence appears to have been committed under section 56L of this Act.”; and

(c) the following subsection shall be inserted after subsection(7) —

“(7A) Any person duly authorised in writing by the Secretary of State or a planning authority may at any reasonable time enter any land in respect of which a hazardous substances contravention notice has been served for the purpose of ascertaining whether the notice has been complied with.”.

6 In section 275(1) of that Act (interpretation)—

(a) the following shall be inserted after the definition of " conservation area " —

“"contravention of hazardous substances control" has the meaning assigned to it by section 56L(2) of this Act;”;

(b) the following shall be inserted after the definition of " government department " —

“" hazardous substances consent" means consent required by section 56C of this Act;

"hazardous substances contravention notice" has the meaning assigned to it by section 97B(3) of this Act;”; and

(c) the following shall be inserted after the definition of " tree preservation order " —

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“" urban development area " and " urban development corporation " have the same meaning as in Part XVI of the Local Government, Planning and Land Act 1980 ;”.

*Town and Country Planning Act 1984 (c.10)*

7 In section 1 of the Town and Country Planning Act 1984 (applications in anticipation of disposal of Crown interests)—

- (a) in subsection (1)(a), after the words " listed building consent" there shall be inserted the words " , hazardous substances consent "; and
- (b) the following subsection shall be inserted after subsection (3) —

“(3A) Any hazardous substances consent granted by virtue of this section shall apply only—

- (a) to the presence of the substance to which the consent relates after the land in question has ceased to be Crown land ; and
- (b) so long as that land continues to be Crown land to the presence of the substance by virtue of a private interest in the land.”.

*Gas Act 1986 (c.44)*

8 In sub-paragraph (1)(xxv) of paragraph 2 of Schedule 7 to the Gas Act 1986 after " 46 ", there shall be inserted " 56B, 56G, ".