

SCHEDULES

SCHEDULE 7

HAZARDOUS SUBSTANCES : CONSEQUENTIAL AMENDMENTS

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—

“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 ;

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- (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 " —
- “" 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—

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- (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, ".