

SCHEDULE 4

ENFORCEMENT — MODIFICATION OF THE PRINCIPAL ACT

PART 2

EFFECT OF HAZARDOUS SUBSTANCES CONTRAVENTION NOTICES, ETC.

5. In section 178 of the principal Act (execution and cost of works required by enforcement notices)—

- (a) for “an enforcement notice” in each place where it occurs substitute “a hazardous substances contravention notice”;
- (b) for “local planning authority” in each place where it occurs substitute “hazardous substances authority”;
- (c) in subsection (2) for “breach of planning control” in both places where it occurs substitute “contravention of hazardous substances control”;
- (d) in subsection (4) for “the enforcement notice” substitute “the hazardous substances contravention notice”;
- (e) after subsection (6) insert—

“(7) Where different periods are specified for different steps under section 24(5)(b) of the Planning (Hazardous Substances) Act 1990 in relation to a hazardous substances contravention notice, references in this section and in section 179 to the period for compliance with a hazardous substances contravention notice, in relation to any step, are to the period at the end of which the step is required to have been taken.”

6. In section 179 (offence where enforcement notice not complied with)—

- (a) for subsection (1) substitute—

“(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.”;
- (b) in subsection (2) for “the owner of the land” substitute “a person” and for “an enforcement notice” substitute “a hazardous substances contravention notice”;
- (c) omit subsections (4) and (5);
- (d) in subsection (6) omit “or (5)”;
- (e) in subsection (7)(a) for “enforcement notice” substitute “hazardous substance contravention notice”.

7. In section 180 (effect of planning permission etc. on enforcement or breach of condition notice)

- (a) for subsection (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 the land to which the notice relates, the notice shall cease to have effect so far as inconsistent with that consent.”
- (b) omit subsection (2);
- (c) in subsection (3), for “enforcement notice or breach of conditions notice” substitute “a hazardous substances contravention notice”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8. For section 181 (enforcement notice to have effect against subsequent development) 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 178 and 179 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 the hazardous substances authority shall not enter the land under section 178(1) without, at least 28 days before their entry, serving on the owner or occupier of the land a notice of their intention to do so.”.