

SCHEDULES

SCHEDULE 4

ENFORCEMENT – SPECIFIED MODIFICATIONS OF THE TCPA

PART 2

Effect of hazardous substances contravention notices, etc.

6. In sections 178, 179, 180 and 181 of the TCPA, as applied by regulation 18—
 - (a) each reference to an enforcement notice is to be read as if it were a reference to a hazardous substances contravention notice; and
 - (b) each reference to a local planning authority is to be read as if it were a reference to a hazardous substances authority.
7. Section 178 of the TCPA (execution and cost of works required by enforcement notices) as it has effect in relation to a hazardous substances contravention notice, is to be read as if—
 - (a) in subsection (2), in both places where the words “breach of planning control” occur, it read “contravention of hazardous substances control”;
 - (b) subsections (3) to (5) were omitted; and
 - (c) the following subsection were inserted after subsection (6)—

“(7) Where different periods are specified for different steps in a hazardous substances contravention notice by virtue of section 24(5)(b) of the PHSA, references in this section and in section 179 to the period for compliance with a hazardous substances contravention notice, in relation to a step, are to the period by the end of which the step is required to have been taken.”
8. Section 179 (offence where enforcement notice not complied with), as it has effect in relation to a hazardous substances contravention notice, is to be read as if—
 - (a) subsection (1) read as follows—

“(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 before the end of that period have not been taken, any person other than the owner who is in control of the land and the owner of the land at that time is in breach of the notice.”;
 - (b) in subsection (2), for the words “the owner of the land” read “a person”;
 - (c) subsections (4) and (5) were omitted;
 - (d) in subsection (6), the words “or (5)” were omitted; and
 - (e) in subsection (7)(b), the words “section 188” read “regulation 19 of the Planning (Hazardous Substances) (Wales) Regulations 2015”.
9. Section 180 (effect of planning permission etc. on enforcement or breach of condition notice) as it has effect in relation to a hazardous substances contravention notice, is to be read as if—
 - (a) subsection (1) read as follows—

Status: This is the original version (as it was originally made).

“(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 or any part of that land, the notice ceases to have effect so far as inconsistent with that consent.”;

(b) subsection (2) were omitted; and

(c) in subsection (3), the words “or breach of condition notice” were omitted.

10. Section 181 (enforcement notice to have effect against subsequent development) as it has effect in relation to a hazardous substances contravention notice, is to be read as if the following were substituted for subsections (1) to (5) of that section—

“(1) Compliance with a hazardous substances contravention notice does 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 is 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, is 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 may be taken which would constitute a breach of that condition, and the taking of such further steps is in contravention of that notice.

(5) Sections 178 and 179 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 must 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.”