



## 2011 CHAPTER 25

### Part 5

#### Enforcement

##### *Hazardous substances*

#### **Hazardous substances contravention notice**

**162.**—(1) Subject to subsection (2), where it appears to a council that there is or has been a contravention of hazardous substances control in its district, it may issue a hazardous substances contravention notice if it considers it expedient to do so having regard to any material consideration.

(2) The council must not issue a hazardous substances contravention notice where it appears to the council that a contravention of hazardous substances control can be avoided only by the taking of action amounting to a breach of a statutory duty.

(3) In this Act “hazardous substances contravention notice” means a notice—

- (a) specifying an alleged contravention of hazardous substances control; and
- (b) requiring such steps as may be specified in the notice to be taken to remedy wholly or partly the contravention.

(4) A copy of a hazardous substances contravention notice must be served—

- (a) on the owner and on the occupier of the land to which it relates;
- (b) on any person other than the owner or occupier who appears to the council to be in control of that land; and
- (c) on such other persons as may be prescribed.

(5) A hazardous substances contravention notice must also specify—

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*Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 162. (See end of Document for details)*

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- (a) a date not less than 28 days from the date of service of copies of the notice as the date on which it is to take effect;
  - (b) in respect of each of the steps required to be taken to remedy the contravention of hazardous substances control, the period from the notice taking effect within which the step is to be taken.
- (6) Where the council issues a hazardous substances contravention notice the steps required by the notice may, without prejudice to the generality of subsection (3)(b), if the council thinks it expedient, include a requirement that the hazardous substance be removed from the land.
- (7) Where a notice includes such a requirement, it may also contain a direction that at the end of such period as may be specified in the notice any hazardous substances consent for the presence of the substance shall cease to have effect or, if it relates to more than one substance, shall cease to have effect so far as it relates to the substance which is required to be removed.
- (8) The council may withdraw a hazardous substances contravention notice (without prejudice to its power to issue another) at any time before or after it takes effect.
- (9) If the council does so, it shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice or would, if the notice were re-issued, be served with a copy of it.
- (10) The Department must by regulations provide for—
- (a) appeals to the planning appeals commission against hazardous substances contravention notices;
  - (b) the persons by whom, grounds upon which and time within which such an appeal may be brought;
  - (c) the application to such appeals, subject to such modifications as the regulations may specify, of any of the provisions of sections 143 to 145.
- (11) If any person appeals against a hazardous substances contravention notice, the notice shall, subject to regulations made under this section, be of no effect pending the final determination or the withdrawal of the appeal.
- (12) The Department may by regulations—
- (a) specify matters which are to be included in hazardous substances contravention notices, in addition to those which are required to be included in them by this section;
  - (b) direct that any of the provisions of sections 146 to 150 and 185 of this Act shall have effect in relation to hazardous substances contravention notices subject to such modifications as it may specify in the regulations;
  - (c) make such other provision as it considers necessary or expedient in relation to hazardous substances contravention notices.

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**Modifications etc. (not altering text)**

- C1** Pt. 5 applied with modification(s) (1.4.2015) by [The Planning \(Conservation Areas\) \(Demolition\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/107\)](#), regs. 1, **11**
- C2** Pt. 5 (except ss. 157-163) applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), **2** (with regs. 3-10)
- C3** Ss. 162-175: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

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**Commencement Information**

- I1** S. 162 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** S. 162 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with **Sch. 2**) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

**Status:**

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**Changes to legislation:**

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