



# Planning (Hazardous Substances) (Scotland) Act 1997

## 1997 CHAPTER 10

### *Secretary of State's powers*

- 19 Appeals against decisions or failure to take decisions relating to hazardous substances**
- (1) Where a planning authority—
    - (a) refuse an application for hazardous substances consent, an application under section 15(1) or an application for any consent, agreement or approval of the authority required by a condition imposed on the grant of such consent, or
    - (b) grant it subject to conditions,the applicant may appeal to the Secretary of State.
  - (2) A person who has made an application for hazardous substances consent may also appeal to the Secretary of State if the planning authority have not given to the applicant—
    - (a) notice of their decision on the application, or
    - (b) notice that the application has been referred to the Secretary of State in accordance with directions given under section 18,within such period as may be prescribed, or within such extended period as may at any time be agreed upon in writing between the applicant and the planning authority.
  - (3) An appeal under this section shall be made by notice served within such time and in such manner as may be prescribed.
  - (4) For the purposes of the application of subsection (5) in relation to an appeal under subsection (2), the authority shall be deemed to have refused the application in question.
  - (5) On an appeal under this section, the Secretary of State may—
    - (a) allow or dismiss the appeal, or

- (b) reverse or vary any part of the decision of the planning authority (whether the appeal relates to that part of it or not),  
and may deal with the application as if it had been made to him in the first instance.
- (6) Before determining an appeal under this section the Secretary of State shall, if either the appellant or the planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (7) If the Secretary of State proposes to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, he shall give notice of his intention to the planning authority and to the appellant and shall give each of them an opportunity of making representations about his proposals.
- (8) The decision of the Secretary of State on an appeal under this section shall be final.
- (9) If at any time before or during the determination of an appeal under this section it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—
  - (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal, and
  - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.
- (10) The Schedule to this Act (which makes provision regarding the determination of certain appeals by a person appointed by the Secretary of State) applies to appeals under this section.