



# Planning (Hazardous Substances) Act 1990

## 1990 CHAPTER 10

### *Miscellaneous provisions*

#### [<sup>F1</sup>26A Fees for consent applications.

- (1) Provision may be made by regulations for the payment of a fee of the prescribed amount to a hazardous substances authority in respect of an application for, or for the continuation of, hazardous substances consent.
- (2) Regulations under this section may provide for the payment to the Secretary of State of a fee of the prescribed amount in respect of any application which is, by virtue of regulations under section 25, deemed to have been made for hazardous substances consent.
- (3) Regulations under this section may provide—
  - (a) for the transfer of prescribed fees received by a hazardous substances authority in respect of any application which is referred to the Secretary of State under section 20;
  - (b) for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by the Secretary of State;

and the regulations may make different provision for different areas or for different cases or descriptions of cases.]

#### Textual Amendments

- F1** S. 26A inserted (1.1.1992) before s. 27 by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 Pt. I para. 9](#); [S.I. 1991/2829, art. 3](#)

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

- C1** S. 26A: power to apply conferred (10.11.1993) by [1993 c. 28, ss. 171\(4\)\(c\)](#); [S.I. 1993/2762, art. 3](#)

*Status: Point in time view as at 12/03/2015.*

*Changes to legislation: Planning (Hazardous Substances) Act 1990, Cross Heading: Miscellaneous provisions is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- I1** [S. 26A](#) wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 3; [s. 26A](#) in force for certain purposes at 11.3.1992 see [S.I. 1992/725](#), art. 2

#### [<sup>F2</sup>26AA Injunctions.

- (1) Where a hazardous substances authority consider it necessary or expedient for any actual or apprehended contravention of hazardous substances control to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Act.
- (2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the contravention.
- (3) Rules of court may, in particular, provide for such an injunction to be issued against a person whose identity is unknown.
- (4) In this section “the court” means the High Court or the county court.]

#### Textual Amendments

- F2** [S. 26AA](#) inserted (25.11.1991) for certain purposes by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 15](#) (with s. 84(5)); [S.I. 1991/2728](#), [art. 2](#)

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

- C2** [S. 26AA](#): power to apply conferred (10.11.1993) by [1993 c. 28](#), [ss. 171\(4\)\(c\)](#); [S.I. 1993/2762](#), [art. 3](#)

#### Commencement Information

- I2** [S. 26AA](#) wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 3; [s. 26AA](#) in force for certain purposes at 11.3.1992 see [S.I. 1992/725](#), art. 2

#### 27 Temporary exemption directions.

- (1) If it appears to the Secretary of State—
  - (a) either—
    - (i) that the community or part of it is being or is likely to be deprived of an essential service or commodity; or
    - (ii) that there is or is likely to be a shortage of such a service or commodity affecting the community or part of it; and
  - (b) that the presence of a hazardous substance on, over or under land specified in the direction in circumstances such that hazardous substances consent would be required, is necessary for the effective provision of that service or commodity,

he may direct that, subject to such conditions or exceptions as he thinks fit, the presence of the substance on, over or under the land is not to constitute a contravention of hazardous substances control so long as the direction remains in force.
- (2) A direction under this section—
  - (a) may be withdrawn at any time;

*Status: Point in time view as at 12/03/2015.*

*Changes to legislation: Planning (Hazardous Substances) Act 1990, Cross Heading: Miscellaneous provisions is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) shall in any case cease to have effect at the end of the period of three months beginning with the day on which it was given, but without prejudice to the Secretary of State's power to give a further direction.
- (3) The Secretary of State shall send a copy of any such direction to the authority who are the hazardous substances authority for the land.

<sup>F3</sup>(4) . . . . .

**Textual Amendments**

**F3** S. 27(4) repealed (1.1.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VII](#); [S.I. 1991/2829](#), [art. 3](#)

**Commencement Information**

**I3** S. 27 wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 3; s. 27 in force for certain purposes at 11.3.1992 see [S.I. 1992/725](#), art. 2

**28 Registers etc.**

- (1) Every <sup>F4</sup> . . . hazardous substances authority <sup>F4</sup> . . . shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect—
  - (a) to applications for hazardous substances consent [<sup>F5</sup>made to that authority;
  - (aa) to applications under section 17(1) made to that authority;]
  - (b) to hazardous substances consent having effect by virtue of section 11 or 12 with respect to land for which that authority is, <sup>F6</sup> . . . , the hazardous substances authority;
  - (c) to revocations or modifications of hazardous substances consent granted with respect to such land; and
  - (d) to directions under section 27 sent to the authority by the Secretary of State [<sup>F7</sup>;

and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with.]

<sup>F8</sup>(2) . . . . .

- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

**Textual Amendments**

**F4** Words repealed (1.1.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VII](#); [S.I. 1991/2829](#), [art. 3](#)

**F5** Words "made to that authority" and para. (aa) substituted (1.1.1992) for the words following the word "consent" by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 Pt. I para. 2\(4\)\(a\)](#); [S.I. 1991/2829](#), [art. 3](#)

**F6** Words repealed (1.1.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VII](#); [S.I. 1991/2829](#), [art. 3](#)

**F7** Words inserted (1.1.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 Pt. I para. 2\(4\)\(b\)](#); [S.I. 1991/2829](#), [art. 3](#)

*Status: Point in time view as at 12/03/2015.*

*Changes to legislation: Planning (Hazardous Substances) Act 1990, Cross Heading: Miscellaneous provisions is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F8** S. 28(2) repealed (1.1.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VII](#); [S.I. 1991/2829](#), [art. 3](#)

#### Commencement Information

**I4** S. 28 wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 3; s. 28 in force for certain purposes at 11.3.1992 see [S.I. 1992/725](#), art. 2

## 29 Health and safety requirements.

- (1) Nothing in—
- (a) any hazardous substances consent granted or deemed to be granted or having effect by virtue of this Act; or
  - (b) any hazardous substances contravention notice issued under section 24, shall require or allow anything to be done in contravention of any of the [<sup>F9</sup>relevant provisions] or any prohibition notice or improvement notice <sup>F10</sup>....
- (2) To the extent that such a consent or notice purports to require or allow any such thing to be done, it shall be void.
- (3) Where it appears to a hazardous substances authority who have granted, or are deemed to have granted, a hazardous substances consent or who have issued a hazardous substances contravention notice that the consent or notice or part of it is rendered void by subsection (2), the authority shall, as soon as is reasonably practicable, consult the [<sup>F11</sup>safety regulator] with regard to the matter.
- (4) If the [<sup>F12</sup>safety regulator advises] the authority that the consent or notice is rendered wholly void, the authority shall revoke it.
- (5) If [<sup>F13</sup>the safety regulator advises] that part of the consent or notice is rendered void, the authority shall so modify it as to render it wholly operative.

[<sup>F14</sup>(6) In this section—

“improvement notice” means a notice served under section 21 of the Health and Safety at Work etc. Act (“the 1974 Act”) or given under paragraph 3 of Schedule 8 to the Energy Act 2013 (“the 2013 Act”);

“prohibition notice” means a notice served under section 22 of the 1974 Act or given under paragraph 4 of Schedule 8 to the 2013 Act;

“relevant provisions” means—

- (a) the relevant statutory provisions within the meaning of Part 1 of the 1974 Act; and
- (b) the relevant statutory provisions within the meaning of the 2013 Act other than—
  - (i) the provisions of the Nuclear Safeguards Act 2000; and
  - (ii) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes.]

#### Textual Amendments

**F9** Words in s. 29(1) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 2 para. 10\(2\)\(a\)](#) (with [Sch. 4](#))

**Status:** Point in time view as at 12/03/2015.

**Changes to legislation:** Planning (Hazardous Substances) Act 1990, Cross Heading: Miscellaneous provisions is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F10** Words in s. 29(1) omitted (1.4.2014) by virtue of The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 10(2)(b)** (with Sch. 4)
- F11** Words in s. 29(3) substituted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 10(3)** (with Sch. 4)
- F12** Words in s. 29(4) substituted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 10(4)** (with Sch. 4)
- F13** Words in s. 29(5) substituted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 10(5)** (with Sch. 4)
- F14** S. 29(6) substituted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 10(6)** (with Sch. 4)

---

#### **Commencement Information**

- I5** S. 29 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; s. 29 in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

**Status:**

Point in time view as at 12/03/2015.

**Changes to legislation:**

Planning (Hazardous Substances) Act 1990, Cross Heading: Miscellaneous provisions is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.