



# Planning (Hazardous Substances) (Scotland) Act 1997

## 1997 CHAPTER 10

### *Obtaining hazardous substances consent*

#### **[<sup>F1</sup>10A Deemed hazardous substances consent: established presence**

- (1) Where a hazardous substance was present on, over or under any land at any time within the establishment period, for which hazardous substances consent was not required during that period, hazardous substances consent may be claimed in respect of its presence.
- (2) A claim shall be made on Form 12 (as set out in Schedule 2 to the Regulations) before the end of the transitional period and shall contain the information specified in regulation 15 of the Regulations.
- (3) Subject to subsections (4) and (5), the planning authority shall be deemed to have granted any hazardous substances consent which is claimed under subsection (1).
- (4) Hazardous substances consent is only to be deemed to be granted under this section if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.
- (5) If it appears to the planning authority that a claim for hazardous substances consent does not comply with subsection (2), it shall be their duty, before the end of the period of two weeks from their receipt of the claim—
  - (a) to notify the claimant that in their opinion the claim is invalid; and
  - (b) to give their reasons for that opinion.
- (6) Hazardous substances consent which is deemed to be granted under this section is subject—
  - (a) to the condition that the maximum aggregate quantity of the substance that may be present—
    - (i) on, over or under the land to which the claim for the consent relates;

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*Status: Point in time view as at 06/07/2000.*

*Changes to legislation: There are currently no known outstanding effects for the Planning (Hazardous Substances) (Scotland) Act 1997, Section 10A. (See end of Document for details)*

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- (ii) on, over or under other land controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in sub-paragraph (i) is used), forms with the land so mentioned a single establishment;
  - (iii) on, over or under other land which is within 500 metres of the land mentioned in sub-paragraph (i) and controlled by the same person; or
  - (iv) in or on a structure controlled by the same person any part of which is within 500 metres of the land mentioned in sub-paragraph (i),
- at any one time shall not exceed the established quantity and in calculating the established quantity a quantity of a substance which is present under more than one sub-paragraph in this subsection shall be counted only once; and
- (b) to the conditions set out in Schedule 3 to the Regulations.
- (7) In this section and in section 10B—
- “establishment period” means the period of 12 months immediately preceding the relevant date;
- “established quantity” means, in relation to any land, the maximum quantity which was present on, over or under the land at any one time within the establishment period;
- “the Regulations” means the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 <sup>F2</sup>;
- “the relevant date” means the date on which the Planning (Control of Major - Accident Hazards) (Scotland) Regulations 2000 came into force;
- “the transitional period” means the period of 6 months beginning with the relevant date.]

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**Textual Amendments**

**F1** Ss. 10A, 10B inserted (6.7.2000) by S.S.I. 2000/179, art. 3(3)

**F2** S.I. 1993/323, amended by S.I. 1994/2567 and 1996/252.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Planning (Hazardous Substances) (Scotland) Act 1997, Section 10A.