



# Planning (Hazardous Substances) Act 1990

## 1990 CHAPTER 10

### *General*

#### **30 Application of this Act to certain authorities and persons.**

- (1) The provisions of this Act shall have effect, subject to such exceptions and modifications as may be prescribed, in relation to granting hazardous substances consent for authorities who are hazardous substances authorities<sup>F1</sup> . . .
- (2) Subject to the provisions of section 12, any such regulations may in particular provide for securing—
  - (a) that any application by such an authority for hazardous substances consent in respect of the presence of a hazardous substance on, over or under land shall be made to the Secretary of State and not to the hazardous substances authority;
  - (b) that any order or notice authorised to be made, issued or served under those provisions shall be made, issued or served by the Secretary of State and not by the hazardous substances authority.

#### **Textual Amendments**

- F1** Words repealed (1.1.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt.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

#### **Commencement Information**

- II** S. 30 wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 3; s. 30 in force for certain purposes at 11.3.1992 see [S.I. 1992/725](#), art. 2

#### **[<sup>F2</sup>30A Application to the Crown**

- (1) This Act (except the provisions specified in subsection (2)) binds the Crown.

---

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (2) The provisions are—
- (a) section 8(6);
  - (b) section 23;
  - (c) section 26AA;
  - (d) section 36A;
  - (e) section 36B(2).”

#### Textual Amendments

**F2** Ss. 30A, 30B inserted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 79\(3\)](#) (with s. 111); [S.I. 2004/2097, art. 2](#); [S.I. 2006/1281, art. 2\(a\)](#)

### 30B Crown application: transitional

- (1) This section applies if at any time during the establishment period a hazardous substance was present on, over or under Crown land.
- (2) The appropriate authority must make a claim in the prescribed form before the end of the transitional period.
- (3) The claim must contain the prescribed information as to—
  - (a) the presence of the substance during the establishment period;
  - (b) how and where the substance was kept and used.
- (4) Unless subsection (5) or (7) applies, the hazardous substances authority is deemed to have granted the hazardous substances consent claimed in pursuance of subsection (2).
- (5) This subsection applies if the hazardous substances authority think that a claim does not comply with subsection (3).
- (6) If subsection (5) applies, the hazardous substances authority must, before the end of the period of two weeks starting with the date they received the claim—
  - (a) notify the claimant that they think the claim is invalid;
  - (b) give their reasons.
- (7) This subsection applies if at no time during the establishment period was the aggregate quantity of the substance equal to or greater than the controlled quantity.
- (8) 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 for the purposes of this subsection at any one time must not exceed the established quantity;
  - (b) to such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of the consent.
- (9) A substance is present for the purposes of subsection (8)(a) if—
  - (a) it is on, over or under land to which the claim for consent relates,
  - (b) it is on, over or under other land which is within 500 metres of it and is controlled by the Crown, or

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (c) it is in or on a structure controlled by the Crown any part of which is within 500 metres of it,  
and in calculating whether the established quantity is exceeded a quantity of a substance which falls within more than one of paragraphs (a) to (c) must be counted only once.
- (10) The establishment period is the period of 12 months ending on the day before the date of commencement of section 79(3) of the Planning and Compulsory Purchase Act 2004.
- (11) The transitional period is the period of six months starting on the date of commencement of that section.
- (12) The established quantity in relation to any land is the maximum quantity which was present on, over or under the land at any one time within the establishment period.]

---

**Textual Amendments**

- F2** Ss. 30A, 30B inserted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 79\(3\)](#) (with s. 111); [S.I. 2004/2097, art. 2](#); [S.I. 2006/1281, art. 2\(a\)](#)

**[<sup>F3</sup>30C Enforcement in relation to the Crown**

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.
- (2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.
- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.
- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
- (5) A step taken for the purposes of enforcement includes—
- (a) entering land;
  - (b) bringing proceedings;
  - (c) the making of an application.
- (6) A step taken for the purposes of enforcement does not include—
- (a) service of a notice;
  - (b) the making of an order (other than by a court).

---

**Textual Amendments**

- F3** Ss. 30C, 30D inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 84\(4\)](#) (with s. 111); [S.I. 2006/1281, art. 2\(a\)](#)

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

### 30D References to an interest in land

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.
- (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
- (3) An interest in land includes an interest only as occupier of the land.]

#### Textual Amendments

**F3** Ss. 30C, 30D inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 84\(4\)](#) (with s. 111); S.I. 2006/1281, art. 2(a)

### 31 Exercise of powers in relation to Crown land.

<sup>F4</sup>(1) .....

<sup>F4</sup>(2) .....

(3) In this section—

“Crown land” means land in which there is a Crown interest or a Duchy interest;

[<sup>F5</sup>“Crown interest” means any of the following—

- (a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;
- (b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
- (c) such other interest as the Secretary of State specifies by order;]

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall.

(4) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of subsection (1) as having an interest in land.

(5) For the purposes of this section “the appropriate authority”, in relation to any land—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

[<sup>F6</sup>(aa) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;]

- (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
- (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
- (d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- [<sup>F7</sup>(e) in relation to Westminster Hall and the Chapel of St Mary Undercroft, means the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;
- (f) in relation to Her Majesty's Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, means the Lord Great Chamberlain.]
- (6) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.
- [<sup>F8</sup>(7) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862.
- (8) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (3) must be made by statutory instrument.
- (9) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

- F4** S. 31(1)(2) repealed (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 8\(2\)](#), [Sch. 9](#) (with s. 111); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2006/1281](#), [art. 2\(c\)\(f\)](#)
- F5** Words in s. 31(3) substituted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 8\(3\)](#) (with s. 111); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2006/1281](#), [art. 2\(c\)](#)
- F6** S. 31(5)(aa) inserted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 8\(4\)](#) (with s. 111); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2006/1281](#), [art. 2\(c\)](#)
- F7** S. 31(5)(e) inserted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 8\(5\)](#) (with s. 111); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2006/1281](#), [art. 2\(c\)](#)
- F8** S. 31(7)-(9) inserted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 8\(6\)](#) (with s. 111); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2006/1281](#), [art. 2\(c\)](#)

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

- C1** S. 31 amended (25.9.1991) by [Atomic Weapons Establishment Act 1991 \(c. 46, SIF 8\)](#), ss. 3, 6(2), [Sch. para. 10](#) (with s. 1)

#### Commencement Information

- I2** S. 31 wholly in force at 1.6.1992 see [S.I. 1992/725](#), art. 3; s. 31 in force for certain purposes at 11.3.1992 see [S.I. 1992/725](#), art. 2

### [<sup>F9</sup>31A Applications for hazardous substances consent by Crown

- (1) This section applies to an application for hazardous substances consent made by or on behalf of the Crown.
- (2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(3) A statutory provision is a provision contained in or having effect under any enactment.]

**Textual Amendments**

**F9** S. 31A inserted (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 12\(1\)](#) (with s. 111); S.I. 2004/2097, art. 2; S.I. 2006/1281, art. 2(c)

**<sup>F10</sup>32 Application for hazardous substances consent in anticipation of disposal of Crown land.**

.....

**Textual Amendments**

**F10** S. 32 repealed (6.8.2004 for specified purposes, 7.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 12\(2\)](#), [Sch. 9](#) (with s. 111); S.I. 2004/2097, art. 2; S.I. 2006/1281, art. 2(c)(f)

**<sup>F11</sup>33 .....**

**Textual Amendments**

**F11** S. 33 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

**34 Ecclesiastical property.**

- (1) Where under any of the provisions of this Act a notice or copy of a notice is required to be served on an owner of land and the land is ecclesiastical property, a similar notice or copy of a notice shall be served on the [<sup>F12</sup>Diocesan Board of Finance for the diocese in which the land is situated].
- (2) [<sup>F13</sup>Where any ecclesiastical property is vested in the incumbent of a benefice which is vacant] and the property is situated elsewhere than in Wales, then for the purposes of this section, sections 8 and 22 and section 31(1), so far as it applies to section 8, and any other provisions of the planning Acts so far as they apply, or have effect for the purpose of, any of those provisions, [<sup>F14</sup>it] shall be treated as being vested in the [<sup>F15</sup>Diocesan Board of Finance for the diocese in which the land is situated].
- (3) Any compensation payable under section 16 in respect of land which is ecclesiastical property [<sup>F16</sup>shall be paid to the Diocesan Board of Finance for the diocese in which the land is situated] and shall <sup>F17</sup>... be applied by [<sup>F18</sup>it] for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising or disposing of the proceeds of such a sale.
- (4) In this section “ecclesiastical property” means land belonging to an ecclesiastical benefice [<sup>F19</sup>of the Church of England], or being or forming part of a church subject to the jurisdiction of a bishop of any diocese [<sup>F19</sup>of the Church of England] or the site of

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

such a church, or being or forming part of a burial ground subject to such jurisdiction  
F20  
....

#### Textual Amendments

- F12** Words in s. 34(1) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(a\)](#); 2006 No. 2, Instrument made by Archbishops
- F13** Words in s. 34(2) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(b\)](#); 2006 No. 2, Instrument made by Archbishops
- F14** Word in s. 34(2) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(b\)](#); 2006 No. 2, Instrument made by Archbishops
- F15** Words in s. 34(2) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(a\)](#); 2006 No. 2, Instrument made by Archbishops
- F16** Words in S. 34(3) substituted for s. 34(3)(a)-(b) (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(c\)](#); 2006 No. 2, Instrument made by Archbishops
- F17** Words in s. 34(3) omitted (E.) (1.10.2006) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(c\)](#); 2006 No. 2, Instrument made by Archbishops
- F18** Word in s. 34(3) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(c\)](#); 2006 No. 2, Instrument made by Archbishops
- F19** Words in s. 34(4) inserted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(d\)](#); 2006 No. 2, Instrument made by Archbishops
- F20** Words in s. 34(4) omitted (E.) (1.10.2006) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 28\(d\)](#); 2006 No. 2, Instrument made by Archbishops

#### Commencement Information

- I3** S. 34 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; s. 34 in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

### 35 Application of Act to Isles of Scilly.

In relation to land in the Isles of Scilly the provisions of this Act, and any other provisions of the planning Acts in so far as they apply or have effect for the purposes of those provisions, shall have effect as if those Isles were a district and the Council of the Isles were the council of that district.

#### Commencement Information

- I4** S. 35 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3, s. 35 in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

### 36 Rights of entry.

- (1) Any person duly authorised in writing by the Secretary of State or by a hazardous substances authority may at any reasonable time enter any land for the purpose of surveying it in connection with—
- any application for hazardous substances consent;
  - any proposal to issue a hazardous substances contravention notice.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) Any person duly authorised in writing by the Secretary of State or by a hazardous substances authority may at any reasonable time enter any land for the purpose of ascertaining whether an offence appears to have been committed under section 23.
- (3) Any person who is an officer of the Valuation Office or a person duly authorised in writing by a hazardous substances authority may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land made by virtue of section 16 or 19.
- (4) Any person duly authorised in writing by the Secretary of State or by a hazardous substances authority may at any reasonable time enter any land in respect of which a hazardous substances contravention notice [<sup>F21</sup>or a notice under section 183 of the principal Act (as applied by regulations made by virtue of section 25)] has been issued for the purpose of ascertaining whether the notice has been complied with.
- (5) <sup>F22</sup> . . . , any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.
- <sup>F23</sup>(6) . . . . .

#### Textual Amendments

- F21** Words in s. 36(4) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 16(2)** (with s. 84(5)); S.I. 1991/2905, **art. 3**
- F22** Words in s. 36(5) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 25, 84(6), **Sch. 3 Pt. II para. 32, Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, **art. 3**
- F23** Ss. 36A, 36B substituted (2.1.1992) for s. 36(6) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 25, 84(2), **Sch. 3 Pt. I para. 16(3)** (with s. 84(5)); S.I. 1991/2905, **art. 3**

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

- C2** S. 36 Power to apply conferred (10.11.1993) by 1993 c. 28, **ss. 171(4)(c)**; S.I. 1993/2762, **art.3**

#### Commencement Information

- I5** S. 36 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; s. 36 in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

#### [<sup>F24</sup>36A Warrants to enter land.

- (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 36; and
  - (b) that—
    - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
    - (ii) the case is one of urgency,
- the justice may issue a warrant authorising any person duly authorised in writing by a hazardous substances authority to enter the land.



*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (3) A warrant authorises entry on one occasion only and that entry must be—
  - (a) within one month from the date of the issue of the warrant; and
  - (b) at a reasonable hour, unless the case is one of urgency.]

#### Textual Amendments

**F24** Ss. 36A, 36B substituted (2.1.1992) for s. 36(6) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, 84(2), [Sch. 3 Pt. I para. 16\(3\)](#) (with s. 84(5)); S.I. 1991/2905, [art. 3](#)

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

**C3** S. 36A Power to apply conferred (10.11.1993) by [1993 c. 28, ss. 171\(4\)\(c\)](#); S.I. 1993/2762, [art. 3](#)

#### Commencement Information

**I6** S. 36A wholly in force at 1.6.1992 see S.I. 1992/725, art. 3, s. 36A in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

### [<sup>F25</sup>36B Rights of entry: supplementary provisions.

- (1) A person authorised to enter land in pursuance of a right of entry conferred under or by virtue of section 36 or 36A (referred to in this section as “a right of entry”)—
  - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
  - (b) may take with him such other persons as may be necessary; and
  - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.
- (4) Subsection (3) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.
- (5) A person who is guilty of an offence under subsection (3) shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
- (6) If any damage is caused to land or chattels in the exercise of—
  - (a) a right of entry; or
  - (b) a power conferred by virtue of section 36(5) in connection with such a right,

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State; and section 118 of the principal Act shall apply in relation to compensation under this section as it applies in relation to compensation under Part IV of that Act.

- (7) The authority of the appropriate Minister shall be required for the carrying out of works in the exercise of a power under section 36 if—
- (a) the land in question is held by statutory undertakers, and
  - (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.
- (8) Section 265(1) and (3) of the principal Act (meaning of “appropriate Minister”) applies for the purposes of subsection (7) as it applies for the purposes of section 325(9) of the principal Act.]

#### Textual Amendments

**F25** Ss. 36A, 36B substituted (2.1.1992) for s. 36(6) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 16\(3\)](#) (with s. 84(5)); S.I. 1991/2905, [art. 3](#)

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

**C4** S. 36B functions transferred (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [26](#)

#### Commencement Information

**I7** S. 36B wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; s. 36B in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

### [<sup>F26</sup>36C Rights of entry: Crown land

- (1) Section 36 applies to Crown land subject to the following modifications.
- (2) A person must not enter Crown land unless he has the relevant permission.
- (3) Relevant permission is the permission of—
  - (a) a person appearing to the person seeking entry to the land to be entitled to give it, or
  - (b) the appropriate authority.
- (4) Section 36B does not apply to anything done by virtue of this section.
- (5) “Appropriate authority” must be construed in accordance with section 31(5).]

#### Textual Amendments

**F26** S. 36C inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 3 para. 15](#) (with s. 111); S.I. 2006/1281, art. 2(c)

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### 37 Application of certain general provisions of principal Act.

(1) The provisions of the principal Act specified in subsection (2) shall apply for the purposes of this Act as they apply for the purposes of that Act.

(2) Those provisions are—

- [<sup>F27</sup>sections 319ZA to 319ZD (Wales: discharge of functions of local planning authority relating to applications)]
- section 320 (local inquiries)
- section [<sup>F28</sup>322 (orders as to costs of parties where no inquiry held [<sup>F29</sup>: England] )]
- section [<sup>F30</sup>322A (orders as to costs: supplementary)]
- [<sup>F31</sup>section 322C (costs: Wales)]
- 323 (procedure on certain appeals and applications [<sup>F32</sup>: England] )
- [<sup>F33</sup>section 323A (procedure for certain proceedings: Wales)]
- section 329 (service of notices)
- [<sup>F34</sup>section 329A(1) and (2) (service of notices on the Crown)]
- section 330 (power to require information as to interests in land)
- [<sup>F35</sup>section 330A(1) to (4) (information as to interests in Crown land)]
- section 331 (offences by corporations).

<sup>F36</sup>(4) . . . . .

#### Textual Amendments

- F27** Words in s. 37(2) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 39(4)**, 58(2)(b)(4)(b); S.I. 2017/546, art. 3(a)
- F28** Words omitted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, [Sch. 4 paras. 1, 14](#) (which temp. omission falls (2.1.1992) for specified purposes only by virtue of S.I. 1991/2698, **arts. 3, 4**)
- F29** Word in s. 37(2) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 25(2)(a)**; S.I. 2016/52, art. 4(j) (with art. 17)
- F30** Words in s. 37(2) inserted (2.1.1992 except for specified purposes) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **ss. 30(2)**, 84(2) (with s. 84(5)); S.I. 1991/2728, **arts. 3, 4**
- F31** Words in s. 37(2) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 25(2)(b)**; S.I. 2016/52, art. 4(j) (with art. 17)
- F32** Word in s. 37(2) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 25(2)(c)**; S.I. 2017/546, art. 3(e)
- F33** Words in s. 37(2) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 25(2)(d)**; S.I. 2017/546, art. 3(e)
- F34** Words in s. 37(2) inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **Sch. 3 para. 21(2)** (with s. 111); S.I. 2006/1281, art. 2(c)
- F35** Words in s. 37(2) inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **Sch. 3 para. 21(3)** (with s. 111); S.I. 2006/1281, art. 2(c)
- F36** S. 37(4) omitted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 25(3)**; S.I. 2017/546, art. 3(e)

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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

- C5** S. 37: transitory modification by 1990 c. 11, Sch. 4 para. 14 falls (6.4.2009) for further specified purposes by virtue of S.I. 2009/849, art. 2 (with art. 3)

#### Commencement Information

- I8** S. 37 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; s. 37 in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

### 38 Financial provisions.

- (1) Where—
- (a) compensation is payable by a local authority under this Act in consequence of any decision or order given or made under sections 4 to 21 or the Schedule,
  - (b) that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament,
- the Minister responsible for the administration of that service may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.
- (2) Any local authority and any statutory undertakers may contribute towards any expenses incurred by a hazardous substances authority<sup>F37</sup> . . . in or in connection with the performance of any of their functions under sections 4 to 29.
- (3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under sections 4 to 21, the Secretary of State may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.
- (4) For the purposes of subsections (2) and (3), contributions made by an authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.
- (5) The council of a county may direct that any expenses incurred by them under sections [F38 1, 3], 16, 20, 21 [F39 25(5)], 31, 34 and 36, the previous provisions of this section or the Schedule shall be treated as special expenses of a county council chargeable upon such part of the county as may be specified in the directions.
- (6) There shall be paid out of money provided by Parliament any expenses of the Secretary of State or any government department under this Act.
- (7) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

#### Textual Amendments

- F37** 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**
- F38** Words "1, 3" substituted (1.1.1992) for words "1 to 3" by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 Pt. I para. 2(6)**; S.I. 1991/2829, **art. 3**

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

**F39** In s. 38(5) word "25(5)" inserted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, [Sch. 4 paras. 1, 15](#) (which temp. insertion falls (2.1.1992) for specified purposes only by virtue of [S.I. 1991/2698](#), [arts. 3, 4](#))

---

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

- C6** S. 38(1)(2) extended (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\)](#), [Sch. 9 para. 14\(2\)](#) (with [ss. 7\(6\), 115, 117](#), [Sch. 8 para. 7](#))
- C7** [S. 38\(1\)](#) functions made exercisable concurrently or jointly with the Welsh Ministers by [2006 c. 32, Sch. 3A para. 1](#) (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\)](#), [Sch. 4 para. 1](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(p\)](#))
- C8** S. 38(5): transitory modification by [1990 c. 11, Sch. 4 para. 15](#) falls (6.4.2009) for further specified purposes by virtue of [S.I. 2009/849, art. 2](#) (with [art. 3](#))

---

**Commencement Information**

- I9** S. 38 wholly in force at 1.6.1992 see [S.I. 1992/725, art. 3](#); s. 38 in force for certain purposes at 11.3.1992 see [S.I. 1992/725, art. 2](#)

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Planning (Hazardous Substances) Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(4A) inserted by [2023 c. 55 Sch. 17 para. 4\(b\)](#)
- s. 9(2)(ca) inserted by [2023 c. 55 Sch. 6 para. 14](#)
- s. 10(4) inserted by [2023 c. 55 s. 124\(6\)](#)
- s. 20(4A) inserted by [2008 c. 29 Sch. 10 para. 26](#)
- s. 21(5A) inserted by [2008 c. 29 Sch. 10 para. 27](#)
- s. 37(3) inserted by [2008 c. 29 Sch. 10 para. 29](#)
- s. 37(5) inserted by [2023 c. 55 s. 124\(7\)\(b\)](#)
- Sch. para. 2(4A) inserted by [2008 c. 29 Sch. 10 para. 30\(2\)](#)
- Sch. para. 2(9) inserted by [2008 c. 29 Sch. 10 para. 30\(3\)](#)
- Sch. para. 3(4A)(4B) inserted by [2008 c. 29 Sch. 10 para. 30\(4\)](#)
- Sch. para. 6(1A) inserted by [2008 c. 29 Sch. 10 para. 30\(6\)](#)