



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 by virtue of section 1 or 3.
- (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.

31 Exercise of powers in relation to Crown land

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to subsection (2), any restrictions imposed or powers conferred by sections 4 to 29 (except section 22) shall apply and be exercisable in relation to Crown land to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown.
- (2) Except with the consent of the appropriate authority, no order or notice shall be made, issued or served under any of the provisions of section 14, 15 or 24 in relation to land which for the time being is Crown land.
- (3) In this section—

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

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“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;
 - (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.
- (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.

32 Application for hazardous substances consent in anticipation of disposal of Crown land

- (1) Subsections (2) to (4) have effect for the purpose of enabling Crown land, or an interest in Crown land, to be disposed of with the benefit of hazardous substances consent.
- (2) Notwithstanding the interest of the Crown in the land in question, an application for such consent may be made—
- (a) by the appropriate authority; or
 - (b) by any person authorised by that authority in writing;
- and, subject to subsections (3) and (4), all the statutory provisions relating to the making and determination of such an application shall accordingly apply as if the land were not Crown land.
- (3) Any hazardous substances consent granted by virtue of this section shall apply only—
- (a) to the presence of the substance to which the consent relates after the land in question has ceased to be Crown land; and
 - (b) so long as that land continues to be Crown land, to the presence of the substance by virtue of a private interest in the land.
- (4) The Secretary of State may by regulations—
- (a) modify or exclude any of the statutory provisions referred to in subsection (2) in their application by virtue of that subsection and any other statutory provisions in their application to consents granted by virtue of this section;

- (b) make provision for requiring a hazardous substances authority to be notified of any disposal of, or of an interest in, any Crown land in respect of which an application has been made by virtue of this section; and
 - (c) make such other provision in relation to the making and determination of applications by virtue of this section as he thinks necessary or expedient.
- (5) This section shall not be construed as affecting any right to apply for hazardous substances consent in respect of Crown land in a case in which such an application can be made by virtue of a private interest in the land.
- (6) In this section—
“private interest” means an interest which is neither a Crown interest nor a Duchy interest;
“statutory provisions” means provisions contained in or having effect under any enactment;
and references to the disposal of an interest in Crown land include references to the grant of an interest in such land.
- (7) Subsections (3), (5) and (6) of section 31 apply for the purposes of this section as they apply for the purposes of that section.
- (8) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of this section as having an interest in land and references to the disposal or grant of an interest in Crown land and to a private interest in such land shall be construed accordingly.

33 British Coal

- (1) The Secretary of State for the Environment and the Secretary of State for Energy with the consent of the Treasury may by regulations direct that any of the provisions specified in subsection (2) relating to statutory undertakers and to land of such undertakers—
- (a) shall apply to the British Coal Corporation as if it were a statutory undertaker; and
 - (b) shall apply to land (including mines) of that Corporation of any such class as may be specified in the regulations as if it were operational land.
- (2) Those provisions are sections 1 to 3, 16, 20, 21, 31 (the reference in subsection (1) to sections 4 to 29 not being construed as including a reference to section 8(1) to (3)), 34(1), (3) and (4), 36 and 38(1) to (5), and any other provisions of the planning Acts so far as they apply or have effect for the purposes of any of those provisions.
- (3) Such regulations may apply those provisions subject to such adaptations, modifications and exceptions as may be specified in the regulations.

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 Church Commissioners.
- (2) Where the fee simple of any ecclesiastical property is in abeyance 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, the fee simple shall be treated as being vested in the Church Commissioners.

- (3) Any compensation payable under section 16 in respect of land which is ecclesiastical property—
 - (a) shall be paid to the Church Commissioners, and
 - (b) shall be applied by them 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, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

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.

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—
 - (a) any application for hazardous substances consent;
 - (b) any proposal to issue a hazardous substances contravention notice.
- (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 has been issued for the purpose of ascertaining whether the notice has been complied with.
- (5) Subject to subsection (6), 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.
- (6) Section 325 of the principal Act (supplementary provisions as to rights of entry) applies in relation to this section as it applies in relation to section 324 of that Act, but taking the reference in section 325(8) to section 324(8) as a reference to subsection (5).

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—
 - section 320 (local inquiries)
 - section 322 (orders as to costs of parties where no inquiry held)
 - section 323 (procedure on certain appeals and applications)
 - section 329 (service of notices)
 - section 330 (power to require information as to interests in land)
 - section 331 (offences by corporations).

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 (being a local planning authority) 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 1 to 3, 16, 20, 21, 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.