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STATUTORY INSTRUMENTS

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**1993 No. 323**

**The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993**

**PART 5**

**ENFORCEMENT**

**Hazardous substances contravention notices**

**18.**—(1) A hazardous substances contravention notice shall identify the land to which the notice relates, whether by reference to a plan or otherwise.

(2) The persons prescribed pursuant to section 97B(4)(b) (other persons on whom notice is to be served)<sup>(1)</sup> are all persons having an interest in the land to which the application relates who in the opinion of the authority issuing the notice are materially affected by the notice.

(3) Every copy of a hazardous substances contravention notice served pursuant to section 97B(4) shall be accompanied by a statement setting out—

- (a) the planning authority's reasons for issuing the notice; and
- (b) the right of appeal to the Secretary of State against the notice, and the persons by whom, grounds upon which and time within which such an appeal may be brought under section 85<sup>(2)</sup>.

**Appeals against hazardous substances contravention notices**

**19.**—(1) Section 85 (other than subsections (2B),(3),(5A) and (5B)) shall apply to appeals against hazardous substances contravention notices, subject to the modifications set out in Part 1 of Schedule 4.

(2) The provisions of section 85 which apply to such appeals, as modified in accordance with paragraph (1), are set out in Part 5 of Schedule 4.

**Appeals: supplementary**

**20.**—(1) A person who appeals against a hazardous substances contravention notice shall, at the same time as notice of the appeal is given to the Secretary of State under section 85<sup>(2)</sup>, send

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(1) Section 97B(4)(b) of the Act was inserted by section 36 of the 1986 Act.

(2) Section 85 was amended as follows: subsections (1) and (2) were substituted by the Planning and Compensation Act 1991 (c. 34) ("the 1991 Act"), section 38(1); subsections (2A)-(2D) were inserted by the Local Government and Planning Act 1982 (c. 43) ("the 1982 Act"), Schedule 2, paragraph 20(b) and subsection (2B) amended by the 1991 Act, Schedule 13, paragraph 20(a); subsection (4) was amended by the 1991 Act, Schedule 13, paragraph 20(b); subsection (5) was amended by the 1991 Act, Schedule 13, paragraph 20(c); subsections (5A) and (5B) were inserted by the 1991 Act, Schedule 13, paragraph 20(d); subsection (6) was amended by and subsections (6A) and (6B) inserted by the 1991 Act, Schedule 13, paragraph 20(e); subsection (7) was amended by the Local Government (Scotland) Act 1973 (c. 65), section 172(2) and by the 1991 Act, Schedule 13, paragraph 20(f); subsection (7A) was inserted by the 1991 Act, section 38(2); subsection (8) was repealed by the 1986 Act, Schedule 12, Part IV; subsection (11) was repealed by the 1991 Act, Schedule 13, paragraph 20(g).

to the planning authority a copy of the notice of appeal and accompanying material required by section 85(2A).

(2) The planning authority shall, within 28 days of receiving the notice of appeal, give to the Secretary of State and to the appellant a statement—

- (a) setting out their submissions in relation to each ground of appeal; and
- (b) indicating whether they would be prepared to grant hazardous substances consent for the presence on, over or under the land of any quantity of the hazardous substance to which the hazardous substances contravention notice relates and, if so, particulars of the condition, if any, which they would wish to impose on such consent.

(3) The planning authority shall, within that 28 day period, give notice of the appeal to persons holding a notifiable interest (as described in regulation 6(2)) in neighbouring land to that land to which the hazardous substances contravention notice relates.

### **Effect of hazardous substances contravention notices, etc**

**21.**—(1) Sections 86 (other than subsections (4) and (5))(3), 88(4), 89(5) and 89A (other than subsection (2))(6) shall have effect in relation to hazardous substances contravention notices, subject to the modifications set out in Part 2 of Schedule 4.

(2) The provisions of sections 86, 88, 89 and 89A which apply to such notices, as modified in accordance with paragraph (1), are set out in Part 5 of Schedule 4.

### **Enforcement register**

**22.**—(1) Section 87A(7) (register of enforcement and stop notices) shall have effect in relation to hazardous substances contravention notices, subject to the modifications set out in Part 3 of Schedule 4.

(2) The provisions of section 87A, as modified in accordance with paragraph (1), are set out in Part 5 of Schedule 4.

### **Validity**

**23.** Section 231(8) (as read with section 233(3))(9) shall apply to appeals against hazardous substances contravention notices, subject to the modifications set out in Part 4 of Schedule 4.

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- (3) Section 86 was substituted by the Planning and Compensation Act 1991, section 40.
  - (4) Section 88(1) was amended by the Local Government (Scotland) Act 1973 (“the 1973 Act”), section 172(2) and by the Planning and Compensation Act 1991 (“the 1991 Act”), Schedule 19, Part IV; subsection (1A) was inserted by the Local Government and Planning (Scotland) Act 1982 (“the 1982 Act”), Schedule 2, paragraph 23(a); subsection (2) was amended by the 1973 Act, section 172(2) and by the 1991 Act, Schedule 13, paragraph 23; subsections (3)-(5) were substituted by the 1982 Act, Schedule 2, paragraph 23(b); subsection (6) was inserted by the 1991 Act, section 39.
  - (5) Section 89(1), (3) and (4) was amended by the Planning and Compensation Act 1991, Schedule 13, paragraph 24; section 89(4) was also amended by virtue of the Criminal Procedure (Scotland) Act 1975 (c. 21) section 289G (as inserted by the Criminal Justice Act 1982 (c. 48) section 54).
  - (6) Section 89A was replaced (after earlier insertion) by the Planning and Compensation Act 1991, Schedule 13, paragraph 25.
  - (7) Section 87A was inserted by the Local Government and Planning (Scotland) Act 1982, sections 44 and 69(2) and amended by the Planning and Compensation Act 1991, Schedule 13, paragraph 22.
  - (8) Section 231 was amended as follows: by the Town and Country Planning (Minerals) Act 1981 (c. 36), Schedule 2, paragraph 8; by the Local Government and Planning (Scotland) Act 1982 (c. 43), sections 47(c) and 69(2), Schedule 2, paragraph 35(a) and (b) and Schedule 4, Part I; by the 1986 Act, Schedule 6, Part IV, paragraph 4, Schedule 7, Part II, paragraph 2, and Schedule 11, paragraph 50; and by the Planning and Compensation Act 1991, Schedule 13, paragraph 33 and Schedule 12, paragraph 22.
  - (9) Section 233(3) was amended by the 1986 Act, Schedule 12, Part IV.