
EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2A of the Environmental Protection Act 1990 (c. 43) (“Part 2A” of “the 1990 Act”) sets out a regime for the identification and remediation of contaminated land. The Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005 (S.I.2005/3467) (“the Powers Regulations”) applied the powers under the 1990 Act to make regulations and guidance in relation to radioactive substances. These Regulations, which apply to England only, are made pursuant to the powers under Part 2A of the 1990 Act as modified by the Powers Regulations and make provision for Part 2A to have effect with modifications for the purpose of the identification and remediation of radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under the Nuclear Installations Act 1965 (c. 57), or in related circumstances (see regulation 17).

These Regulations also transpose Articles 48 and 53 of Council Directive 1996/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (OJNo. L 159, 29.06.1996, p.1).

Regulation 5 modifies, various definitions in section 78A of the 1990 Act.

Regulation 6 provides for section 78B of the 1990 Act to have effect with a modification to ensure that the local authority’s duty of inspection only applies in relation to land that it has reasonable grounds for believing may be contaminated.

Regulation 8 restricts the discretion of an enforcing authority to determine what is reasonable by way of remediation for the purposes of section 78E(4) of the 1990 Act. The effect is to require the enforcing authority to weigh up the benefit of any intervention against the health detriment and costs arising from such intervention and maximise the benefit from such intervention.

Regulation 14 modifies section 78N of the 1990 Act so as to require the enforcing authority to carry out remediation itself in certain circumstances.

Regulation 17 provides that Part 2A does not apply where land is contaminated land by reason of substances being in on or under the land, in so far as by reason of that presence damage to any property occurs in breach of certain duties under the Nuclear Installations Act 1965, or in related circumstances.

Regulation 18 ensures that the powers of the Environment Agency or local authority under section 108 of the Environment Act 1995 (c. 25) extend to their functions under Part 2A as it applies to harm attributable to radioactivity.

A Regulatory Impact Assessment and a Transposition Note in relation to these Regulations have been prepared and placed in the library of each House of Parliament. Copies of each of these documents can be obtained from the Radioactive Substances Division, Department for Environment, Food and Rural Affairs, Zone 3/G27, Ashdown House, 123 Victoria Street, London, SW1E 6DE.

Changes to legislation:

There are currently no known outstanding effects for the The Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006.