
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 179

**The Radioactive Contaminated
Land (Scotland) Regulations 2007**

Section 78B

5. After section 78B of the 1990 Act insert—

“Duty to advise the appropriate Agency about radioactive contaminated land

78BA. If at any time (whether or not in performing its functions under section 78B(1) above), a local authority considers that any contaminated land in its area may be contaminated as a result of any radioactivity possessed by any substance, it shall give notice of that fact to the appropriate Agency.

Identification of radioactive contaminated land

78BB.—(1) Where the appropriate Agency considers that there are reasonable grounds for believing that land may be contaminated land as a result of any radioactivity possessed by any substance, it shall inspect that land for the purposes of identifying whether it is so contaminated and whether it requires designation as a special site under section 78BC below.

(2) The fact that substances have been or are present on the land shall not of itself be taken to be reasonable grounds for the purposes of subsection (1) above.

(3) The appropriate Agency shall advise the local authority in whose area the land is situated of the outcome of any inspection under subsection (1) above.

(4) In performing its functions under subsection (1) above, the appropriate Agency shall act in accordance with any guidance issued for the purpose in accordance with section 78YA below.

Designation of special sites

78BC.—(1) If at any time (whether or not following a notification under section 78BA above or in performing its functions under section 78BB(1) above) it appears to the appropriate Agency that any contaminated land might be land which is contaminated as a result of any radioactivity possessed by any substance and which requires designation as a special site, the appropriate Agency—

- (a) shall decide whether or not the land is land which is required to be so designated; and
- (b) if it decides that the land is land which is required to be so designated, shall give notice of that decision to the relevant persons.

(2) For the purposes of this section, “the relevant persons” at any time in the case of any land are the persons who at that time fall within paragraphs (a) to (d) below, that is to say—

- (a) the local authority in whose area the land is situated;
- (b) the owner of the land;

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(c) any person who appears to the appropriate Agency to be in occupation of the whole or any part of the land; and

(d) each person who appears to the appropriate Agency to be an appropriate person.

(3) Where the appropriate Agency makes a decision falling within paragraph (b) of subsection (1) above, the decision shall take effect on the day after the expiration of the period of twenty-one days beginning with the day on which the notice required by virtue of that paragraph is given to the relevant persons.

(4) Where a decision that any land is land which is required to be designated as a special site takes effect in accordance with subsection (3) above, the notice given under subsection (1)(b) above shall have effect, as from the time when the decision takes effect, as the designation of that land as such a site.”.

Commencement Information

I1 Reg. 5 in force at 1.4.2007 for specified purposes, see [reg. 1\(2\)](#)

I2 Reg. 5 in force at 30.10.2007 in so far as not already in force, see [reg. 1\(1\)](#)

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Changes and effects yet to be applied to :

- reg. 5 coming into force by [S.S.I. 2007/179](#) reg. 1(1)

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

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

- reg. 1(3)(a) word inserted by [S.I. 2016/562](#) Sch. 2 para. 11(3)(a)
- reg. 1(3)(a) words inserted by [S.I. 2016/562](#) Sch. 2 para. 11(3)(d)
- reg. 1(3)(a) words substituted by [S.I. 2016/562](#) Sch. 2 para. 11(3)(b)
- reg. 1(3)(a) words substituted by [S.I. 2016/562](#) Sch. 2 para. 11(3)(c)
- reg. 1(3)(a) words substituted by [S.I. 2016/562](#) Sch. 2 para. 11(3)(d)
- reg. 3(e)(iii) substituted by [S.I. 2010/2153](#) reg. 2(3)
- reg. 3(e)(iii) words inserted by [S.S.I. 2009/202](#) reg. 2(3)(a)
- reg. 3(e)(iii) words inserted by [S.S.I. 2009/202](#) reg. 2(3)(b)