



Environmental Protection Act 1990

1990 CHAPTER 43

^{F1}[PART IIA

CONTAMINATED LAND

^{F1}[78F **Determination of the appropriate person to bear responsibility for remediation.**

- (1) This section has effect for the purpose of determining who is the appropriate person to bear responsibility for any particular thing which the enforcing authority determines is to be done by way of remediation in any particular case.
- (2) Subject to the following provisions of this section, any person, or any of the persons, who caused or knowingly permitted the substances, or any of the substances, by reason of which the contaminated land in question is such land to be in, on or under that land is an appropriate person.
- (3) A person shall only be an appropriate person by virtue of subsection (2) above in relation to things which are to be done by way of remediation which are to any extent referable to substances which he caused or knowingly permitted to be present in, on or under the contaminated land in question.
- (4) If no person has, after reasonable inquiry, been found who is by virtue of subsection (2) above an appropriate person to bear responsibility for the things which are to be done by way of remediation, the owner or occupier for the time being of the contaminated land in question is an appropriate person.
- (5) If, in consequence of subsection (3) above, there are things which are to be done by way of remediation in relation to which no person has, after reasonable inquiry, been found who is an appropriate person by virtue of subsection (2) above, the owner or occupier for the time being of the contaminated land in question is an appropriate person in relation to those things.
- (6) Where two or more persons would, apart from this subsection, be appropriate persons in relation to any particular thing which is to be done by way of remediation, the enforcing authority shall determine in accordance with guidance issued for the purpose

Status: Point in time view as at 11/03/2014. This version of this provision has been superseded.

Changes to legislation: Environmental Protection Act 1990, Section 78F is up to date with all changes known to be in force on or before 22 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

by the Secretary of State whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing.

- (7) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, they shall be liable to bear the cost of doing that thing in proportions determined by the enforcing authority in accordance with guidance issued for the purpose by the Secretary of State.
- (8) Any guidance issued for the purposes of subsection (6) or (7) above shall be issued in accordance with section 78YA below.
- (9) A person who has caused or knowingly permitted any substance (“substance A”) to be in, on or under any land shall also be taken for the purposes of this section to have caused or knowingly permitted there to be in, on or under that land any substance which is there as a result of a chemical reaction or biological process affecting substance A.
- (10) A thing which is to be done by way of remediation may be regarded for the purposes of this Part as referable to the presence of any substance notwithstanding that the thing in question would not have to be done—
- (a) in consequence only of the presence of that substance in any quantity; or
 - (b) in consequence only of the quantity of that substance which any particular person caused or knowingly permitted to be present.]

Textual Amendments

- F1** Pt. IIA (ss. 78A-78YC) inserted (in force at 21.9.1995 for certain purposes only, at 1.4.2000 for E. in so far as not already in force, at 14.7.2000 for S. for certain purposes and otherwise 14.7.2000) by 1995 c. 25, s. 57 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3; S.I. 2000/340, art. 2(a); S.S.I. 2000/180, art. 2(1)(a)(2); S.I. 2000/1986, art. 2

Modifications etc. (not altering text)

- C1** Pt. IIA (ss. 78A-78YC) applied (with modifications) (S.) (1.4.2007 for certain purposes, 30.10.2007 otherwise) by The Radioactive Contaminated Land (Scotland) Regulations (S.S.I. 2007/179), regs. 1(1)(2), 2-15 (as amended: (10.12.2007) by S.I. 2007/3240, reg. 3 (with reg. 2); (26.6.2009) by S.S.I. 2009/202, regs. 1, 2; (30.9.2010) by S.I. 2010/2153, regs. 1, 2, 3; (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by The Nuclear Installations (Liability for Damage) Order 2016 (S.I. 2016/562), art. 1(2), Sch. 2 para. 11 (with art. 40); (22.5.2019) by The Radiation (Emergency Preparedness and Public Information) Regulations 2019 (S.I. 2019/703), reg. 1(1), Sch. 10 para. 8 (with reg. 3))

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