

# CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 9: Miscellaneous**

#### **Pollution**

#### ***Section 104 Contaminated Land: appeals against remediation notices***

264. [Section 104](#) amends the arrangements for appeals against remediation notices which are served under section 78E of Part 2A of the Environmental Protection Act 1990 (contaminated land).
265. The section amends section 78L to provide that the person on whom a remediation notice is served by a local authority in England may appeal to the Secretary of State, and in Wales to the National Assembly for Wales. This replaces the previous arrangement in section 78L under which magistrates' courts considered appeals where the notice had been served by the local authority, and the Secretary of State considered appeals where the notice had been served by the Environment Agency. The section will therefore provide a single appellate authority for remediation notices under Part 2A, whether served by the local authority or the Environment Agency.
266. Appeals to the Secretary of State and the National Assembly for Wales are heard by Inspectors appointed for the purpose. Cases may be decided by the Inspector, or "recovered" for decision by the Secretary of State or the National Assembly for Wales on the basis of the Inspector's report

#### ***Section 105 Offences relating to pollution etc: penalties on conviction***

267. [Section 105](#) raises the penalties available to the courts for offenders found guilty of offences under paragraph 25 of Schedule 1 to the Pollution Prevention and Control Act 1999. These offences relate to, for example, contravention of the requirement for a permit to operate an installation or mobile plant, failure to comply with or to contravene a condition of a permit and failure to comply with the requirements of an enforcement notice or a suspension notice.
268. This section increases the maximum fines available on summary conviction from £20,000 to £50,000.
269. *Subsection (2)* raises the maximum sentence available on summary conviction from six to twelve months, in line with a change made by section 154(1) of the [Criminal Justice Act 2003 \(c.44\)](#).