

2007 No. 3236

**ENVIRONMENTAL PROTECTION, NORTHERN
IRELAND**

RADIOACTIVE SUBSTANCES, NORTHERN IRELAND

**The Radioactive Contaminated Land Regulations (Northern
Ireland) (Amendment) Regulations 2007**

<i>Made</i> - - - -	<i>12th November 2007</i>
<i>Laid before Parliament</i>	<i>16th November 2007</i>
<i>Coming into force</i> - -	<i>10th December 2007</i>

The Secretary of State has been designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures relating to basic safety standards for health protection of the general public and workers against the dangers of ionising radiation.

The Secretary of State makes the following Regulations in exercise of the powers conferred by that section:

Citation and commencement

1. These regulations may be cited as the Radioactive Contaminated Land Regulations (Northern Ireland) (Amendment) Regulations 2007 and come into force on 10th December 2007.

Amendments

2.—(1) The Radioactive Contaminated Land Regulations (Northern Ireland) 2006^(c) are amended as follows.

(2) In regulation 2(2)—

(a) after the definition of “the chief inspector”, insert—

““contaminated land” has the meaning given to it in regulation 2A;”;

(b) after the definition of “ionising radiation”, insert—

““land contaminated by a nuclear occurrence” means contaminated land which, by virtue of it being such, damage to that land has occurred, being—

(a) damage caused in breach of any duty imposed by section 7, 8, 9 or 10 of the 1965 Act, or deemed to be so caused by section 12(2) of that Act;

(a) The Secretary of State is so designated by S.I. 1991/2289.

(b) 1972 c. 68.

(c) S. R. (NI) 2006 No 345.

- (b) damage which would have been so caused or would have been deemed by section 12(2) of the 1965 Act to have been so caused if, in section 7(1)(a) or (b) of that Act, the words “other than the licensee” or, in section 10(1) of that Act, the words “other than the operator” had not been enacted; or
- (c) damage in respect of which any relevant foreign operator or other person is liable under any relevant foreign law, or for which he would be so liable—
 - (i) but for any exclusion or limitation of liability applying by virtue of any provision of that law made for purposes corresponding to those of section 13(3) or (4)(a), 15, 16(1) and (2) or 18 of the 1965 Act; or
 - (ii) if any such relevant foreign law which does not contain provision made for purposes corresponding to those of section 13(4)(b) of the 1965 Act did contain such provision;”;
- (c) for the definition of “lasting exposure”, substitute—

““lasting exposure” means an exposure—

 - (a) arising from the after-effects of a radiological emergency, past practice or past work activity; and
 - (b) giving rise to doses that exceed one or more of the following criteria—
 - (i) an effective dose of 3 millisieverts per annum,
 - (ii) an equivalent dose to the lens of the eye of 15 millisieverts per annum, or
 - (iii) an equivalent dose to the skin of 50 millisieverts per annum,
 where the estimation of an effective dose and equivalent dose is undertaken in accordance with Articles 15 and 16 of the Directive;

“licensee”, “relevant foreign law” and “relevant foreign operator” have the meanings given to them by section 26(1) of the 1965 Act;”;
- (d) for the definition of “responsible person”, substitute—

““responsible person” means—

 - (a) in relation to land contaminated by a nuclear occurrence, the Secretary of State; and
 - (b) in any other situation to which these Regulations apply, first the polluter and if the polluter is not found, the owner or occupier of the land;”;
 - (e) after paragraph (2), insert—

“(3) Any other word or expression used both in these Regulations and in the Directive has the same meaning for the purposes of these Regulations as it has in that Directive.”.

(3) After regulation 2, insert—

“Meaning of contaminated land

2A.—(1) “Contaminated land” is land which the Chief Inspector has identified as being in such a condition by reason of substances in, on or under the land that lasting exposure to any person—

- (a) is being caused; or
- (b) is likely to be caused.

(2) Except where paragraph (4) applies, in paragraph (1), lasting exposure to any person is likely to be caused when, having regard to any uncertainties, the potential annual effective dose from any lasting exposure multiplied by the probability of the dose being received is greater than 3 millisieverts.

(3) Paragraph (2) only applies where—

- (a) the potential annual effective dose is below or equal to 50 millisieverts per annum; and

(b) the potential annual dose equivalents to the lens of the eye and to the skin are below or equal to 15 millisieverts and 50 millisieverts respectively.

(4) This paragraph applies where the conditions in either sub-paragraph (a) or sub-paragraph (b) of paragraph (3) do not apply, in which case lasting exposure to any person is likely to be caused where the Chief Inspector considers that there is a likelihood of lasting exposure being caused.

(5) In this regulation, “potential annual effective dose” and “potential annual dose equivalent” refer to doses that are not certain to occur.”.

(4) For regulation 4, substitute—

“Intervention notices

4.—(1) Subject to paragraph (3), the Chief Inspector may, by serving an intervention notice upon the responsible person, require that the responsible person carry out the necessary actions set out in regulation 3(2).

(2) If no responsible person is identified then the Department shall undertake the necessary actions set out in regulation 3(2).

(3) Where, by virtue of the land being land contaminated by a nuclear occurrence, the Secretary of State is the responsible person, the Department shall undertake the necessary actions set out in regulation 3(2).

(4) Where the Department has a duty to take action by virtue of paragraph (3), the Secretary of State shall make available to the Department a sum of money in respect of costs and expenses incurred or to be incurred by the Department (or by a person on its behalf) in discharging that duty.”.

(5) For regulation 7, substitute—

“Scope

7. These Regulations do not apply if—

(a) action is required to be taken by the Health and Safety Executive for Northern Ireland under paragraph (2) of regulation 13 (implementation of emergency plans) of the Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001; and

(b) that action is something which, except for this regulation, could be required to be done under regulation 3(2).”.

Phil Woolas
Minister of State

12th November 2007

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Radioactive Contaminated Land Regulations (Northern Ireland) 2006 (S.R. (NI) 2006 No 345) (“the 2006 Regulations”), extending their application to all radioactivity including situations where civil liability for damage to land is regulated, for the purposes of the Paris Convention on third party liability in the field of nuclear energy, by the Nuclear Installations Act 1965 (c. 57) or foreign law (in other words, situations where the radiation arises from a nuclear occurrence) (paragraphs (2) to (4) of regulation 3). They also exclude from the regime situations where the Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001 (S.R. (NI) 2001 No 436) apply in so far as any action that could have been required be taken under these Regulations, if they applied, would have already been required to be taken under those Regulations (regulation 3(5)).

These Regulations also implement obligations arising under 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 (OJ No. L 159, 29.06.1996, p.1).

A full regulatory impact assessment was produced in relation to the 2006 Regulations and that remains relevant to these Regulations. As such a further full regulatory impact assessment has not been produced for this instrument as no additional impact on the private or voluntary sectors is foreseen. A Transposition Note in relation to these Regulations has been prepared and placed in the library of each House of Parliament. Copies of this document can be obtained from the Radioactive Substances Division, Department for Environment, Food and Rural Affairs, Room 4C, Ergon House, Horseferry Road, London, SW1P 2AL

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