
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Wales, amend the Contaminated Land (Wales) Regulations 2006 (S.I.2006/2989 (W.278)) (the “2006 Regulations”).

Regulation 2(2) amends the circumstances set out in regulation 3(b) (pollution of controlled waters) of the 2006 Regulations in which contaminated land affecting controlled waters is required to be designated as a special site. The amendment takes account of protected areas under Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy (OJ No L327, 22.12.00, p.1).

Regulation 2(2) also amends regulation 3(c) (pollution of controlled waters) of the 2006 Regulations to take account of the updated definition of “controlled waters” in section 78A(9) of the Environmental Protection Act 1990 (c. 43).

Regulation 2(3) limits the application of regulation 11 (modification of a remediation notice) of the 2006 Regulations to appeals commenced prior to 6 April 2012. In relation to those appeals, regulation 11 provides that, prior to the Welsh Ministers modifying a remediation notice in a way which would be less favourable to the appellant or any other person on whom that notice was served, the Welsh Ministers are required to notify those persons, and to permit them to make representations and to be heard in relation to the proposed modification.

Regulation 2(4) amends Schedule 2 to the 2006 Regulations to reflect the changes brought about by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), which transferred the functions of the ands Tribunal to the Upper Tribunal and abolished the ands Tribunal. Regulation 2(4) also amends paragraph 6(4) of Schedule 2 to the 2006 Regulations to remove references to the repealed section 2 of the and Compensation Act 1961 (c. 33) and to provide for the appropriate application of particular references.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to the changes to the contaminated land regime. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with the changes to the contaminated land regime, making reference to the main impacts of these Regulations. A copy can be obtained from the Department for Environment and Sustainable Development, Welsh Government, Cathays Park, Cardiff, CF10 3NQ. No separate regulatory impact assessment was made for these Regulations.