

PART 2A AND RADIOACTIVITY – FURTHER UPDATE

Introduction

1. This note in the CLAN series applies to England only. It may be read with CLAN 5/06, and provides a further update on the extension of Part 2A of the Environmental Protection Act 1990 to include radioactivity.
2. The scope of Part 2A regime has now been further extended by new regulations to include “land contaminated by a nuclear occurrence”, with effect from 10 December 2007.

Why are there new regulations?

3. The new 2007 regulations (below) are required to complete the transposition of Article 53 of the Basic Safety Standards Directive 96/29/Euratom, which sets out specific requirements for intervention in cases of lasting exposure. They amend earlier regulations so that Part 2A is able to address “off-site” radioactive contamination from nuclear occurrences, which the earlier extension had excluded from scope.

The Radioactive Contaminated Land (Modification of Enactments) (England) (Amendment) Regulations 2007 (SI 2007/3245)

4. This new instrument amends the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006 (“the 2006 Regulations”). In effect it extends the modifications made by the 2006 Regulations to Part 2A of the Environmental Protection Act 1990 to “land contaminated by a nuclear occurrence”. It also modifies the operation of section 78F as to liability in such cases. The Regulations were laid before Parliament on 16 November 2007, and can be seen at <http://www.opsi.gov.uk/si/si2007/20073245.htm>

5. The explanatory note attached to the new regulations gives further legislative explanation, but in brief:

- “Land contaminated by a nuclear occurrence” is now included within the regime. In very broad terms, this covers “off-site” radioactive contamination from licensed nuclear sites, and certain other situations (“on-site” nuclear contamination continues to be excluded from the scope of the extended Part 2A. Existing legislation already covers this situation);
- For land contaminated by a nuclear occurrence the Secretary of State is the sole appropriate person. This is because it has not proved possible to secure commercial insurance or to put in place another form of financial

guarantee of operators required by the Paris Convention on third party liability in the field of nuclear energy. This approach, however, leaves open the option to address this at a later date when such provisions can be made.

Neither the 2007 or 2006 changes, with respect to radioactivity, alter the way Part 2A works for non-radioactive contamination.

Guidance

6. Details of how Part 2A deals with radioactivity can be found Defra Circular 01/2006 on contaminated land (in particular Annexes 4 & 5), although this does not of course cover the new 2007 regulations. An on-line version can be found via the Defra contaminated land webpages at:

<http://www.defra.gov.uk/environment/land/contaminated/pdf/circular01-2006.pdf>

7. The Industry Profile on radioactivity can be accessed through the following link:

<http://www.defra.gov.uk/environment/land/contaminated/pdf/industryprofile0603.pdf>

8. RCLEA – the technical guidance and software for assessing exposure on sites affected by radioactivity – can now be downloaded from the Environment Agency's website at the following location: [Environment Agency - RCLEAh](#)
Those webpages contain other useful material on the subject.

Enquiries

9. Any enquiries about the legislation (concerning England) should be sent by e-mail to Defra, at contaminatedland.enquiries@defra.gsi.gov.uk

***Defra contaminated land branch
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