STATUTORY INSTRUMENTS

2018 No. 429

ENVIRONMENTAL PROTECTION, ENGLAND

The Radioactive Contaminated Land (Enabling Powers and Modification of Enactments) (England) (Amendment) Regulations 2018

Made - - - -	*21st March 2018*
Laid before Parliament	*28th March 2018*
Coming into force	
for the purpose of regulations 1 and 2	*18th April 2018*
for the purpose of regulation 3	*22nd June 2018*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 78YC of the Environmental Protection Act 1990(**1**).

Citation and commencement

1.—(1) These Regulations may be cited as the Radioactive Contaminated Land (Enabling Powers and Modification of Enactments) (England) (Amendment) Regulations 2018.

(2) This regulation and regulation 2 come into force on 18th April 2018.

(3) Regulation 3 comes into force on 22ndJune 2018.

Amendment of the Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005

2.—(1) The Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005(**2**) are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation)—

(a) in paragraph (3)—

(i) omit the definition of "Article";

(**1**) 1990 c.43. Sections 78A to 78YC were inserted by section 57 of the Environment Act 1995 (c. 25). Section 78YC was amended by S.I. 2010/675 and 2016/1154. See the definition of "prescribed" and "regulations" in section 78A(9).

(**2**) S.I. 2005/3467 was amended by S.I. 2010/2147.

(ii) omit the definition of "Title" and the "and" before it;

(b) omit paragraph (4).

(3) Omit regulation 3 (interpretation of modifications).

(4) In Schedule 1 (modification of Part 2A)—

(a) in paragraph 1(3), in the substituted section 78A(4) (definition of harm)—

(i) for "a radiological" substitute "an";

(ii) after "activity" insert "(except in section 78E(4A)(a)(**3**))";

(b) in paragraph 1(6), in the substituted section 78A(7) (definition of remediation), for "cognate expressions" substitute "references to remediating";

(c) in paragraph 1(6), in the substituted section 78A(7A) (supplemental definition of remediation)—

(i) after paragraph (a), insert—

"(aa) affected members of the public are identified;

(ab) assessment of the means available to the individuals identified under paragraph (aa) for controlling their own exposure is made;";

(ii) omit paragraph (c) and the "and" following it;

(iii) at the end of paragraph (d) insert "; and";

(iv) after paragraph (d), insert—

"(e) any other appropriate protective or remedial measure is implemented.";

(d) for paragraph 1(8), substitute—

"(8) In subsection (9)—

(a) omit the definition of "controlled waters";

(b) for the definition of "substance", substitute—

""substance" means, whether in solid or liquid form or in the form of a gas or vapour, any substance containing radionuclides which have resulted from the after-effects of an emergency or have been processed as part of a past practice or past work activity;"; and

(c) after the definition of "unitary authority", insert—

"and any other word or expression used both in this Part and in Council Directive 2013/59/Euratom, laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom(**4**), has the same meaning for the purposes of this Part as it has in that Directive.".";

(e) in paragraph 4(2), for the substituted section 78E(4A) and (4B) (duty of enforcing authority to require remediation of contaminated land etc), substitute—

"(4A) Where remediation includes the implementation of a protective or remedial measure, that part of the remediation which consists of the implementation of any such measure may be considered reasonable only—

(**3**) See the modification made to section 78E by regulation 2(4)(e) of these Regulations.
(**4**) OJ No L 13, 17.01.2014, p 1.