



Regulatory Reform (Scotland) Act 2014

2014 asp 3

PART 3

ENVIRONMENTAL REGULATION

CHAPTER 4

MISCELLANEOUS

Contaminated land and special sites

45 Contaminated land and special sites

- (1) The Environmental Protection Act 1990 is amended as follows.
- (2) In section 78F (determination of appropriate person to bear responsibility for remediation), after subsection (5) insert—
 - “(5A) But where the contaminated land is owned or occupied by the Crown by virtue of its having vested as *bona vacantia* in the Crown, or its having fallen to the Crown as *ultimus haeres*, the Crown is not an appropriate person under subsection (4) or (5) for the purposes of this Part.”.
- (3) After section 78Q insert—

“78QA Land no longer considered to be contaminated

- (1) Subsection (2) applies where—
 - (a) a local authority has given notice under section 78B above that land in its area has been identified as contaminated land;
 - (b) the land is not designated as a special site by virtue of section 78C(7) or 78D(6) above; and
 - (c) the local authority is satisfied that the land is no longer contaminated land.

Status: This is the original version (as it was originally enacted).

- (2) The local authority may give notice (a “non-contamination notice”) that the land is no longer contaminated land to—
 - (a) the appropriate Agency;
 - (b) the owner of the land;
 - (c) any person who appears to the local authority to be in occupation of the land;
 - (d) each person who appears to the authority to be an appropriate person.
 - (3) Where a non-contamination notice is given in respect of land—
 - (a) the notice mentioned in subsection (1) above ceases to have effect (and accordingly the land is no longer identified as contaminated land for the purposes of this Part);
 - (b) no remediation notice may be served in respect of the land;
 - (c) any remediation notice in force in respect of the land at the time the non-contamination notice is given ceases to have effect (except to the extent that the non-contamination notice provides otherwise); and
 - (d) no proceedings may be begun against a person for an offence under section 78M(1) above in respect of such a remediation notice except in relation to a provision of the notice which continues to have effect by virtue of paragraph (c) above.
 - (4) A non-contamination notice shall not prevent the land, or any of the land, to which the notice relates being identified as contaminated land on a subsequent occasion.
 - (5) Where land, or any of the land, to which a non-contamination notice relates is subsequently identified as contaminated land, or is subsequently designated as a special site by virtue of section 78C(7) or 78D(6), subsection (3)(b) above does not prevent a remediation notice being served in respect of the land.
 - (6) Where a local authority gives a non-contamination notice, it must keep (in such form as it thinks fit) a record of—
 - (a) details of the land to which the notice relates;
 - (b) its reasons for giving the notice; and
 - (c) the date of—
 - (i) the notice mentioned in subsection (1) above;
 - (ii) service of the non-contamination notice.
 - (7) Subsection (8) of section 78R below applies to records kept under subsection (6) above as it applies to registers maintained by enforcing authorities under that section; and for that purpose, the reference to entries is to be read as if it were a reference to information in such records.
 - (8) In performing its function under subsection (2) above, a local authority must have regard to any guidance issued by the Scottish Ministers in accordance with section 78YA below.
 - (9) In this section, references to land in respect of which a non-contamination notice is given include references to part of that land.”.
- (4) After section 78T insert—

Status: This is the original version (as it was originally enacted).

“78TA Registers: removal of information about land designated as special site

- (1) Subsection (2) applies where a local authority has entered in a register maintained under section 78R above particulars of or relating to notices mentioned in paragraph (e) or (f) of subsection (1) of that section.
- (2) The local authority may remove the particulars from the register.
- (3) Particulars may be removed under subsection (2) above only if—
 - (a) the Scottish Environment Protection Agency has given the local authority a notice under section 78Q(4) above that the land to which the notices relate is no longer land which is required to be designated as a special site; and
 - (b) the date specified in the notice given under that section has passed.
- (4) Where a local authority removes particulars from a register under subsection (2) above, it must keep (in such form as it thinks fit) a record of—
 - (a) the particulars that have been removed;
 - (b) its reasons for removing them; and
 - (c) the date on which the particulars—
 - (i) were originally entered in the register; and
 - (ii) were removed.
- (5) Subsection (8) of section 78R above applies to records kept under subsection (4) above as it applies to registers maintained by enforcing authorities under that section; and for that purpose, the reference to entries is to be read as if it were a reference to information in such records.
- (6) In performing its functions under subsection (4) above, a local authority must have regard to any guidance issued by the Scottish Ministers in accordance with section 78YA below.
- (7) Where a local authority removes particulars from a register under subsection (2) above, it must give notice of such removal to—
 - (a) the Scottish Environment Protection Agency;
 - (b) any person who is the owner of land designated as a special site by a notice to which the particulars relate;
 - (c) any person who appears to the local authority to be in occupation of the whole or any part of that land;
 - (d) each person—
 - (i) who appears to the Scottish Environment Protection Agency to be an appropriate person in relation to that land; and
 - (ii) in respect of whom details have been given by the Scottish Environment Protection Agency to the local authority sufficient to enable notice of such removal to be given; and
 - (e) each person who appears to the local authority to be an appropriate person in relation to that land.

Status: This is the original version (as it was originally enacted).

78TB Effect of removal of information from register

- (1) Where a local authority removes particulars from a register under section 78TA(2) above—
 - (a) any remediation notice relating to the land ceases to have effect; and
 - (b) no proceedings may be begun against a person for an offence under section 78M(1) above in respect of any remediation notice relating to the land.
- (2) In subsection (1), “the land” means land designated as a special site by a notice to which the particulars mentioned in that subsection relate.”.
- (5) In section 78X (supplementary provisions), in subsection (4), after paragraph (f) insert—
 - “(g) in relation to property and rights that have vested as *bona vacantia* in the Crown, or that have fallen to the Crown as *ultimus haeres*, the Queen’s and Lord Treasurer’s Remembrancer.”.
- (6) In section 78YA (supplementary provisions with respect to guidance by the Scottish Ministers), in subsection (4A), after “draft” where it second occurs insert “, and a draft of any guidance referred to in section 78QA(8) or section 78TA(6) above,”.