

These notes refer to the Water Act 2003 (c.37) which received Royal Assent on 20th November 2003

WATER ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Section 86 Contaminated land 391.

Section 86: Contaminated land: pollution of controlled waters.

A regime for identifying and dealing with land contamination causing unacceptable risks to human health and the environment was introduced in England in 2000 (in Wales, 2001). Local authorities are under a duty to identify such land and secure its remediation, subject to detailed rules. This includes land in such a condition that pollution of controlled waters is being caused. It became clear that this could include some very minor cases, resulting in an inconsistent approach as between land and water in relation to the degree of risk being addressed by the regime.

392. To resolve this difficulty, this section amends the second limb of the definition of "contaminated land" in Section 78A of the Environmental Protection Act 1990 so that it applies only where significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused. It also provides powers for the Secretary of State to issue guidance on the amended definition and alters the position of "ground waters" in relation to the term "pollution of controlled waters".

393. Provisions under this section are devolved to the Assembly.