

SCHEDULE 2

Further amendments

PART 2

Secondary legislation

The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006

9.—(1) The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006(1) are amended as follows.

(2) In regulation 5(2) (modification of section 78A of the Environmental Protection Act 1990), in the inserted section 78A(2A) (definition of “land contaminated by a nuclear occurrence”)—

- (a) in paragraph (a), after “7,” insert “7B,”;
- (b) in paragraph (b), for “7(1)(a) or (b)” substitute “7(1A)(b) or (1C)(b)”;
- (c) in paragraph (b), for “10(1)” substitute “10(1)(b)”;
- (d) after paragraph (b) (and before the “or”) insert—

“(ba) damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10 of the 1965 Act in respect of which a claim for compensation may be made under section 11H(2) of the 1965 Act or could have been made if section 11H(4) of the 1965 Act had not been enacted;”;

- (e) in paragraph (c)(i), for “16(1) and (2)” substitute “16(1), (1ZA), (1ZB), (2), (3B) or (3C)”.

(3) In regulation 17 (modification of section 78YB of the Environmental Protection Act 1990), in paragraph (3) (insertion of section 78YB(4A) to (4C))—

- (a) after inserted subsection (4A) insert—

“(4AA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a relevant disposal site.”;

- (b) after inserted subsection (4B) insert—

“(4BA) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land within a site used by the Secretary of State for Defence for a purpose which, if section 7B of the 1965 Act applied to the Crown, would cause the site to be a relevant disposal site.”.

(4) In regulation 17(4), in the substituted section 78YB(5) (definitions), at the appropriate place insert—

““relevant disposal site” has the meaning given by section 7B of the 1965 Act.”

(1) S.I. 2006/1379. Regulation 5 was substituted by S.I. 2007/3245, regulation 3(2), and regulation 17 was substituted by S.I. 2008/520, regulation 2(3). There are other amending instruments not relevant to this Order.