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STATUTORY INSTRUMENTS

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**2018 No. 429**

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

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

2.—(1) The Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005<sup>(1)</sup> are amended as follows.

- (2) In regulation 1 (citation, commencement, application and interpretation)—
- (a) in paragraph (3)—
    - (i) omit the definition of “Article”;
    - (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)(2))”;
  - (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)—

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<sup>(1)</sup> S.I. 2005/3467 was amended by S.I. 2010/2147.

<sup>(2)</sup> See the modification made to section 78E by regulation 2(4)(e) of these Regulations.

- (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<sup>(3)</sup>, 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—

    - (a) where the measure does more good than harm; and
    - (b) where the form, scale and duration of the measure is optimised.

(4B) For the purpose of subsection (4A), the form, scale and duration of a protective or remedial measure shall be taken to be optimised if the magnitude of individual doses, the likelihood of exposure and the number of individuals exposed are kept as low as reasonably achievable taking into account the current state of technical knowledge and economic and societal factors.”.
- (5) Omit Schedule 2 (directive definitions).

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(3) OJ No L 13, 17.01.2014, p 1.