



2011 CHAPTER 5

Contaminated land

Contaminated land: pollution of waterways and underground strata

7.—(1) Part 3 of the 1997 Order is amended as follows.

(2) In Article 49 (interpretation of Part 3)—

- (a) in paragraph (1), in the definition of “contaminated land”, for paragraph (b) substitute—
 - “(b) significant pollution of waterways or underground strata is being caused or there is a significant possibility of such pollution being caused;”;
- (b) in paragraph (1), in the definition of “remediation”, in paragraph (b)(i) before “pollution” insert “significant”;
- (c) in paragraph (1), in the definition of “underground strata”, at the end add “, except that it does not include strata which are above the saturation zone”;
- (d) in paragraph (2)—
 - (i) in sub-paragraph (a) after “harm” insert “or pollution of waterways or underground strata”;
 - (ii) in sub-paragraph (b) after “harm” insert “or of significant pollution of waterways or underground strata”;
 - (iii) omit sub-paragraph (c);
- (e) in paragraph (3)—
 - (i) in sub-paragraph (a) after “systems” insert “, or of poisonous, noxious or polluting matter or solid waste matter”;

- (ii) in sub-paragraph (b) after “places” insert “or waterways or underground strata, or different degrees of pollution”;
 - (iii) after “significant harm” insert “or of significant pollution”;
 - (f) in paragraph (4) for the words from “pollution” to the end substitute “significant pollution of, those waterways or those underground strata is being caused or there is a significant possibility of such pollution being caused.”.
- (3) In Article 51 (identification and designation of special sites), in paragraph (9)—
- (a) in sub-paragraph (a)(ii) for “be, or would be likely to be, caused” substitute “or might be caused”;
 - (b) in sub-paragraph (b), before “pollution” insert “significant”.
- (4) In Article 53 (duty of enforcing authority to require remediation of contaminated land) in paragraph (4)(b) before “pollution” insert “of the”.
- (5) In Article 57 (liability in respect of contaminating substances which escape to other land) in each of paragraphs (3) and (4) for the words from “is being caused” to “likely to be caused” substitute “, or significant pollution of waterways or underground strata, is being caused, or there is a significant possibility of such harm or pollution being caused.”.
- (6) In Article 68 (supplementary provisions relating to contaminated land)—
- (a) in paragraph (1)—
 - (i) for sub-paragraph (b) substitute—
 - “(b) significant pollution of waterways or underground strata is being caused or there is a significant possibility of such pollution being caused.”;
 - (ii) for the words from “is being caused, or” to the end substitute “, or significant pollution of waterways or underground strata, is being caused, or there is a significant possibility of such harm or pollution being caused.”;
 - (b) in paragraph (2) for the words from “is being caused” to “likely to be, caused” substitute “, or significant pollution of waterways or underground strata, is being caused, or there is a significant possibility of such harm or pollution being caused”.
- (7) In Article 70 (interaction of Part 3 with other statutory provisions), in each of paragraphs (1)(b) and (2), before “pollution” insert “significant”.