

SCHEDULES

SCHEDULE 7

AMENDMENTS

The Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19)

In Article 8(3) for “Water Act (Northern Ireland) 1972” substitute “Water (Northern Ireland) Order 1999”.

In Article 49(1), in the definition of “waterways” and in the definition of “underground strata”, for “section 30(1) of the Water Act (Northern Ireland) 1972” substitute “Article 2(2) of the Water (Northern Ireland) Order 1999”. After Article 56 insert—

“Restrictions on liability relating to the pollution of waterways and underground strata

56A.—(1) This Article applies where any land is contaminated land by virtue of paragraph (b) of the definition of “contaminated land” in Article 49(1) (whether or not the land is also contaminated land by virtue of paragraph (a) of that definition).

(2) Where this Article applies, no remediation notice given in consequence of the land in question being contaminated land shall require a person who is an appropriate person by virtue of Article 54(4) or (5) to do anything by way of remediation to that or any other land, or any waterway or underground strata, which he could not have been required to do by such a notice had paragraph (b) of the definition of “contaminated land” in Article 49(1) (and all other references to pollution of waterways and underground strata) been omitted from this Part.

(3) Nothing in paragraph (2) prevents the enforcing authority from doing anything by way of remediation under Article 60 which it could have done apart from that paragraph, but the authority shall not be entitled under Article 61 to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by paragraph (2) from requiring that person to do.”.

In Article 60, in paragraphs (3)(d) and (4)(d), for “Article 57” substitute “Article 56A or 57”.

In Article 61(1), for “Article 57(6)” substitute “Article 56A(3) or 57(6)”.

In Article 70(4) for “section 5 of the Water Act (Northern Ireland) 1972” substitute “Part II of the Water (Northern Ireland) Order 1999 for the purposes of Article 9 of that Order”.