

2008 No. 521

ENVIRONMENTAL PROTECTION, WALES

The Radioactive Contaminated Land (Modification of Enactments) (Wales) (Amendment) Regulations 2008

<i>Made</i>	- - - -	<i>25th February 2008</i>
<i>Laid before Parliament</i>		<i>3rd March 2008</i>
<i>Coming into force</i>	- -	<i>6th April 2008</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 78A(9) and 78YC of the Environmental Protection Act 1990(a):

Citation and commencement

1. These Regulations may be cited as the Radioactive Contaminated Land (Modification of Enactments) (Wales) (Amendment) Regulations 2008 and come into force on 6th April 2008.

Amendments

2.—(1) The Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006(b) are amended as follows.

(2) In regulation 5(8) for—

“(c) after the definition of “unitary authority”, insert—”,

substitute—

“(e) after the definition of “unitary authority”, insert—”.

(3) For regulation 17 of, substitute—

“Section 78YB (interaction of Part 2A with other enactments)

17.—(1) Section 78YB (interaction of Part 2A with other enactments) has effect with the following modifications.

(2) In subsection (1)—

(a) 1990 c. 43. Sections 78A to 78YC were inserted by section 57 of the Environment Act 1995 (c. 25). See the definition of “prescribed” and “regulations” in section 78A(9). Section 78YB is amended by regulation 73 of, and paragraphs 2 and 18 of Part 1 of Schedule 21 to, S.I. 2007/3538. There are other amendments to these sections not relevant to these Regulations. In relation to Wales, the powers under these sections were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 38). The Secretary of State’s power to act in relation to Wales under section 78YC is preserved by paragraph 5 of Schedule 3 to the Government of Wales Act 2006 for the purpose of implementing obligations under Articles 48 and 53 of Council Directive 96/29/Euratom.

(b) S.I. 2006/2988 (W. 277), amended by S.I. 2007/3250.

- (a) in paragraph (a), omit the words “significant” and “, or pollution of controlled waters.”; and
 - (b) in paragraph (b), omit the words “or pollution”.
- (3) After subsection (4) insert—
- “(4A) 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 nuclear site.
- (4B) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land on a site—
- (a) in respect of which there is no nuclear site licence in force; and
 - (b) which is used by or on behalf of the Secretary of State for Defence for a purpose which, if section 1 of the 1965 Act applied to the Crown, would require the authority of a nuclear site licence in respect of that site.
- (4C) Nothing in this Part applies in respect of land which, except for this subsection, would otherwise fall to be regarded as contaminated land if—
- (a) action is required to be taken by a local authority under paragraph (2) of regulation 13 (implementation of emergency plans) of the Radiation (Emergency Preparedness and Public Information) Regulations 2001; and
 - (b) that action would for the purposes of Part 2A amount to remediation of the relevant land.”.

(4) For subsection 5, substitute—

“(5) In this section—

“enforcement action” means action under regulation 36, 37 or 42 of the Environmental Permitting (England and Wales) Regulations 2007 (in this subsection referred to as “the 2007 Regulations”);

“licensed site”, “nuclear site licence” and, in relation to a licensee, “period of responsibility” have the meaning given by section 26(1) of the 1965 Act;

“nuclear site” means any licensed site in respect of which, or part of which—

 - (a) a nuclear site licence is for the time being in force; or
 - (b) after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not come to an end; and

“regulated facility” has the meaning given in regulation 8 of the 2007 Regulations.”.”(a).

Revocation

3. In the Radioactive Contaminated Land (Modification of Enactments) (Wales) (Amendment) Regulations 2007(b) omit the following provisions—

- (a) in regulation 3(3), in substituted regulation 5(8), the words—
 - “(c) after the definition of “unitary authority”, insert—”; and
- (b) regulation 3(7).

25th February 2008

Phil Woolas
Minister of State,
Department for Environment, Food and Rural Affairs

(a) In the inserted text “the 1965 Act” means the Nuclear Installations Act 1965 (c. 57).
(b) S.I. 2007/3250.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make an amendment to the Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006 (S.I. 2006/2988 (W.277)) (“the 2006 Regulations”) in relation to the modification those Regulations make to section 78YB of the Environmental Protection Act 1990 (c. 43) (see regulation 2(2)). The amendment made by these Regulations is consequential on the making of the Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538) (“the 2007 Regulations”) which amend that section of that Act. These Regulations also correct a paragraph numbering error introduced into 2006 Regulations by the Radioactive Contaminated Land (Modification of Enactments) (Wales) (Amendment) Regulations 2007 (S.I. 2007/3250) (see regulation 2(1)).

A full regulatory impact assessment was produced in relation to both the 2006 and the 2007 Regulations and those remain relevant to these Regulations. As such a further full impact assessment has not been produced for this instrument as no additional impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

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