

EXECUTIVE NOTE

THE RADIOACTIVE CONTAMINATED LAND (SCOTLAND) AMENDMENT REGULATIONS 2009 SSI 2009/202

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by sections 78A(9) and 78YC of the Environmental Protection Act 1990 (“the 1990 Act”). The instrument is subject to negative resolution procedure.

Policy Objectives

These Regulations further amend the Radioactive Contaminated Land (Scotland) Regulations 2007 (“the 2007 Regulations”). The 2007 Regulations extended the contaminated land regime to include radioactive contaminated land which had been excluded from Part IIA of the 1990 Act.

The definition of “substance” laid down in the 2007 Regulations does not include radon (a naturally occurring radioactive gas) and any radionuclides present as a result of its radioactive decay. This means that land which is contaminated by radon or its decay products cannot be treated as radioactively contaminated. During the assessment of land contaminated by the remnants of radium luminised paint, the significance of radon and its decay products to the radiological assessment was raised by the Scottish Environment Protection Agency (SEPA). SEPA sought the inclusion of radon and its decay products within the definition of “substance” and the Scottish Government agreed to amend the 2007 Regulations accordingly. This amendment to the 2007 Regulations therefore re-defines “substance”, removing the exclusion for radon and its decay products.

These Regulations also extend the modifications made by the 2007 Regulations to section 78A of the 1990 Act in order to clarify within the modified version of section 78A that it is for SEPA and not local authorities to identify land as radioactively contaminated.

These Regulations do not apply to land contaminated by a nuclear occurrence. Liability for nuclear occurrences is a reserved matter under the Scotland Act 1998.

Consultation

The 2007 Regulations were subject to widespread consultation. The amendments being made by the current Regulations are minor and therefore, with the exception of consultation with SEPA, no consultation was undertaken.

Financial Effects

A Regulatory Impact Assessment was undertaken to accompany the 2007 Regulations. Given the minor nature of the changes being made by these Regulations no Regulatory Impact Assessment has been prepared for this instrument.

Radioactive Waste Team
The Scottish Government

May 2009