



# Water Act 2003

## 2003 CHAPTER 37

### PART 3

#### MISCELLANEOUS

##### *Contaminated land*

#### **86 Contaminated land: pollution of controlled waters**

- (1) The Environmental Protection Act 1990 (c. 43) is amended as follows.
- (2) In section 78A (which contains provisions for the interpretation of Part 2A of the 1990 Act, relating to contaminated land)—
  - (a) for subsection (2)(b) there is substituted—
    - “(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused;”
  - (b) in subsection (5)—
    - (i) in paragraph (a), after “harm” there is inserted “ or pollution of controlled waters ”,
    - (ii) in paragraph (b), after “harm” there is inserted “ or of significant pollution of controlled waters ”, and
    - (iii) paragraph (c) is omitted,
  - (c) in subsection (6)—
    - (i) in paragraph (a), after “systems” there is inserted “ , or of poisonous, noxious or polluting matter or solid waste matter ”,
    - (ii) in paragraph (b), after “places” there is inserted “ or controlled waters, or different degrees of pollution ”, and
    - (iii) after “significant harm” there is inserted “ or of significant pollution ”,
  - (d) in subsection (7)(b)(i), before “pollution” there is inserted “ significant ”,

---

**Changes to legislation:** *Water Act 2003, Section 86 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (e) in subsection (8), for the words from “pollution” to the end there is substituted “significant pollution of those waters is being caused or there is a significant possibility of such pollution being caused”, and
  - (f) in subsection (9), in paragraph (a) of the definition of “controlled waters”, after “1991” there is inserted “except that “ground waters” does not include waters contained in underground strata but above the saturation zone”.
- (3) In section 78C (identification and designation of special sites), in subsection (10)—
- (a) in paragraph (a)(ii), for “be, or would be likely to be, caused” there is substituted “or might be caused”, and
  - (b) in paragraph (b), before “pollution” there is inserted “significant”.
- (4) In section 78E (duty of enforcing authority to require remediation of contaminated land), in subsection (4)(b), after “or” there is inserted “of the”.
- (5) In section 78K (liability in respect of contaminating substances which escape to other land), in each of subsections (3) and (4), for the words from “is being caused” to “likely to be caused” there is substituted “, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused”.
- (6) In section 78X (supplementary provisions relating to contaminated land)—
- (a) in subsection (1)—
    - (i) for paragraph (b) there is substituted—
      - “(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused”, and
    - (ii) for the words from “is being caused, or” to “likely to be caused” there is substituted “, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused”, and
  - (b) in subsection (2), for the words from “is being caused” to “likely to be, caused” there is substituted “, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused”.
- (7) In section 78YB (interaction of Part 2A of the Environmental Protection Act 1990 (c. 43) with other enactments), in each of subsections (1)(b) and (2), before “pollution” there is inserted “significant”.

#### Commencement Information

- I1** S. 86 in force at 6.4.2012 in so far as not already in force by S.I. 2012/284, art. 2
- I2** S. 86(1) in force at 1.10.2004 for specified purposes for E. by S.I. 2004/2528, art. 2(q)(ii) (with Sch. para. 8)
- I3** S. 86(1) in force at 11.11.2004 for specified purposes for W. by S.I. 2004/2916, art. 2(e)
- I4** S. 86(1)s. 86(2)(a)-(e)s. 86(3)-(7) in force at 6.4.2012 for E. by S.I. 2012/264, art. 2
- I5** S. 86(1)s. 86(2)(a)-(e)s. 86(3)-(7) in force at 6.4.2012 for W. by S.I. 2012/284, art. 2
- I6** S. 86(2)(f) in force at 1.10.2004 for E. by S.I. 2004/2528, art. 2(q)(i) (with Sch. para. 8)
- I7** S. 86(2)(f) in force at 11.11.2004 for W. by S.I. 2004/2916, art. 2(e)

**Changes to legislation:**

Water Act 2003, Section 86 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 52(9) inserted by [2014 c. 21 Sch. 7 para. 133\(3\)](#)