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Contaminated land

1. Overview

Land can be contaminated by things like:

- heavy metals, such as arsenic, cadmium and lead
- oils and tars
- chemical substances and preparations, like solvents
- gases
- asbestos
- radioactive substances

What counts as contaminated land

Land is legally defined as ‘contaminated land’ where substances are causing or could cause:

- significant harm to people, property or protected species
- significant pollution of surface waters (for example lakes and rivers) or groundwater
- harm to people as a result of radioactivity

Contaminated land may previously have been used as a:

- factory
- mine
- steel mill
- refinery
- landfill

Special sites

Some types of contaminated land are classed as ‘special sites’ . This includes land that:

- seriously affects drinking waters, surface waters or important groundwater sources
- has been, or is being, used for certain industrial activities, such as oil refining or making explosives
- is being or has been regulated using a permit issued under the integrated pollution control or pollution prevention and control regimes
- has been used to get rid of waste acid tars

- is owned or occupied by the Ministry of Defence
- is contaminated by radioactivity
- is a nuclear site

The Environment Agency has technical guidance on special sites

(<https://www.gov.uk/government/publications/land-contamination-technical-guidance-on-special-sites>).

Once a local council has decided that an area is a special site, it is regulated by:

- the Environment Agency (<https://www.gov.uk/government/organisations/environment-agency>) in England
- Natural Resources Wales (<http://naturalresources.wales/?lang=en>) in Wales
- the Scottish Environment Protection Agency (<http://www.sepa.org.uk/regulations/land/contaminated-land/>) (SEPA) in Scotland

2. Who decides if land is contaminated

Your local council or an environment agency will decide if your land is contaminated.

Your land could be investigated for a number of reasons, including when:

- land is sold, let, used or otherwise transferred
- land is proposed for development
- local councils inspect land in their area
- an application is made for an environmental permit or other licence
- land is polluted

Contact your local council (<https://www.gov.uk/find-local-council>) if you believe your land is contaminated.

3. Dealing with contamination

The rules for who's responsible for contamination and how to deal with it depend on whether the land is legally considered 'contaminated land'

(<https://www.gov.uk/contaminated-land/overview>).

If the land counts as contaminated land

If the land is legally considered 'contaminated land', the person who caused or allowed the contamination to happen is responsible for dealing with it, unless:

- they can't be identified
- the local council or environment agency investigating the issue decides they're exempt

The council or agency will then decide who's responsible for dealing with it instead. This may be the landowner, or the person who uses the land.

What happens next

The council or agency will:

- decide how the land should be dealt with
- ask the responsible person to deal with the contamination
- tell them how they should take care of it (clean it up or fence it off, for example)

If the person doesn't deal with the contamination, the council or agency will send a 'remediation notice', telling them when they must take care of it by.

You can agree a voluntary scheme with the council or agency if you're responsible for part or all of the clean up. You must tell them what steps you'll take to clean up the land.

If the land doesn't count as contaminated land

If the land isn't legally considered 'contaminated land', you could be responsible for dealing with the contamination if you're:

- responsible for causing it
- the landowner

You may face legal action if you don't deal with contamination that you're responsible for. Find out how to manage contamination on your land (<https://www.gov.uk/guidance/land-contamination-risk-management>).

If you're developing the land

You'll have to deal with the contamination either:

- before you get planning permission
- as part of the development

Contact your local council (<https://www.gov.uk/find-your-local-council>) to check what you must do to make sure the land is suitable for your proposed development.