

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION  
78E(1)**

**THE CONTAMINATED LAND (ENGLAND)  
REGULATIONS 2000 (SI 2000 NO: 227)**

**THE CONTAMINATED LAND (ENGLAND)  
(AMENDMENT) REGULATIONS 2001 (SI 2001 NO: 663)**

**REMEDIATION NOTICE – St. Leonards Court**

**TO:**

1. Redland Minerals Limited of Bradgate House, Groby, Leicester LE6 0FA
2. Crest Nicholson Residential plc of Crest House, 39 Thames Street, Weybridge, Surrey KT13 8JL

This notice is served on you by the Environment Agency (“the Agency”) pursuant to s. 78E of the Environmental Protection Act 1990 (“the 1990 Act”) in relation to contaminated land identified by St Albans City and District Council under s. 78B EPA and designated as a special site under s. 78C of the 1990 Act.

A notice of identification of contaminated land dated 20<sup>th</sup> June 2002 was given to you by St Albans City and District Council of St Peter’s Street, St Albans, Hertfordshire AL1 3JE in accordance with s. 78B of the 1990 Act that St Leonard’s Court, Sandridge (“SLC”) is contaminated land.

The location and extent of the contaminated land to which this notice relates is shown edged red on the plan annexed to this notice.

The Environment Agency considers that you are an appropriate person within the meaning of the 1990 Act, by reason of having caused or knowingly permitted the substance, or any of the substances, by reason of which the contaminated land to which this notice relates is contaminated land, to be in, on or under that land.

The things that you are required to do by way of remediation and the period within which you are required to do each of these things are set out in Schedule 2.

The further matters required to be stated in this notice are set out in Schedules 3 to 7.

.....  
John Collins  
Acting North East Area Manager of the Thames Region of the Environment Agency

DATE: 8<sup>th</sup> November 2005

The Agency's address for the purposes of this notice is:

Environment Agency  
Kings Meadow House  
Kings Meadow Road  
Reading  
Tel: 0118 953 5175  
Fax: 0118 950 9440  
Ref: Legal/PC/KM/SLC

The contact name for the purposes of this part of the Notice is Pete Carty

*[Note to recipient (this note does not form part of the Notice): Part IIA of the Environmental Protection Act 1990, which was inserted by section 57 of the Environment Act 1995, establishes a framework for the identification and remediation of contaminated land. Part IIA came into force in England on 1<sup>st</sup> April 2000. Part IIA contains the structure and main provisions of the regime. The Contaminated Land (England) Regulations 2000 (SI 2000/227) and the Contaminated Land (England)(Amendment) Regulations 2001 (SI 2001/663) set out detailed provisions on parts of the regime which Part IIA leaves to be specified in secondary legislation, including provisions relating to Remediation Notices and appeals. DETR Circular 02/2000 contains the statutory guidance which provides the detailed framework for the various key elements of the regime. The DETR Circular also sets out the way in which the regime is expected to work in England, by providing an explanation of government policy (Annex 1), a description of the regime (Annex 2) and a guide to the Regulations (Annex 4). Copies of the DETR Circular can be obtained from The Stationery Office, PO Box 29, Norwich NR3 1GN ([www.itsofficial.net](http://www.itsofficial.net))]*

### **SCHEDULE 1**

(Location and extent of contaminated land to which this notice relates (Reg 4(1)(b))

The contaminated land is marked by the area edged red shown on the plan annexed hereto and centred on grid reference TL 17086 10460.

## SCHEDULE 2

(Remediation requirements and periods (Section 78E(1) of the 1990 Act))

The Remedial Treatment Actions which will enable the pollutant linkages identified in Schedule 3 to be effectively remediated to the required standards cannot yet be identified. This is because specific Assessment Actions are needed to characterise in detail the significant pollutant linkages and to collect site data to evaluate the effectiveness of potential Remedial Treatment Actions. This Remediation Notice therefore, identifies the series of Assessment Actions that will enable Remedial Treatment Actions to be specified in one or more subsequent Remediation Notices.

NOTE: The following assessment actions are all desk studies apart from 1D and 2E.

### **1. The Assessment Actions listed below address the Bromate Pollutant Linkage (number 1) identified in Schedule 3.**

A. The following Assessment Action is required to characterise in detail the Bromate Pollutant Linkage to establish what would need to be achieved by Remedial Treatment Actions. **Assessment Actions must be undertaken to:**

- (a) Make a best estimate of the load of bromate held in the unsaturated zone and saturated chalk beneath the area edged red on plan using the data reported in the site investigations carried out by consultants, Komex, in August 2000 and Atkins in November 2001;
- (b) Indicate the extent of the uncertainty in this estimate and the reasons for this uncertainty; and
- (c) Design and cost a site investigation to significantly reduce this uncertainty.

This action must be completed by 15<sup>th</sup> March 2006.

B. The following Assessment Action is required to characterise in detail the Bromate Pollutant Linkage identified to establish what would need to be achieved by Remedial Treatment Actions. **Assessment Actions must be undertaken to:**

- (a) Make a best estimate of the mass flux of bromate being transported in groundwater away from the area edged red in plan;
- (b) Indicate the extent of the uncertainty in this estimate and the reasons for this uncertainty; and
- (c) Design and cost a site investigation to significantly reduce this uncertainty.

This action must be completed by 15<sup>th</sup> March 2006.

C. The following Assessment Action is required to characterise in detail the Bromate Pollutant Linkage identified to establish what would need to be achieved by Remedial Treatment Actions. **An Assessment Action must be undertaken to review the scope for modelling the contaminant plume.**

The review must include:

- (a) Possible types of models;

- (b) The data requirements of each type;
- (c) The extent to which the necessary data already exists;
- (d) The work that would be required to obtain data which does not exist at present;
- (e) The capacity of each type of model to predict how the plume will behave under present conditions; and
- (f) The capacity of each type of model to predict the likely effect on the plume of scavenge-pumping from different locations and at different rates, and the effect of any other action which appears to be a potential Remedial Treatment Action..

This action must be completed by 15<sup>th</sup> May 2006.

D. The following Assessment Action is required to characterise in detail the Bromate Pollutant Linkage identified to establish what would need to be achieved by Remedial Treatment Actions. **An Assessment Action must be undertaken to monitor as specified below.** This action must be started on 15<sup>th</sup> February 2006 and continued until 14<sup>th</sup> February 2011.

The Assessment Action is to provide quality-assured monitoring data and report it to the Agency every two months at the locations identified in Table 1 below for the parameters in Table 2 below and to the detection limits, precision and bias in Table 3 below.

Table 1. Locations to be monitored under Assessment Action D

Loc ref	Site name	Type	NGR	Ownership
020	Cap's Cottages	P	TL 18377 09920	Mr A Sheriff, Nashes Farm
018	Fairfolds Farm	P	TL 18852 10141	Mr A Sheriff, Nashes Farm
059	Hatfield Quarry, WM1	M	TL 18800 08395	Cemex UK
065	Hatfield Quarry, WM9 - Lower level (P2)	M	TL 19718 10115	Cemex UK
068	Hatfield Quarry, WM13	M	TL 18891 09163	Cemex UK
	Symonshyde Quarry, W29	M	TL 2129010670	Cemex UK
	Symonshyde Quarry, W35	M	TL 20370 10445	Cemex UK
	Symonshyde Quarry, W36	M	TL 21100 10500	Cemex UK
167	The Old Cottage, newbh	P	TL 21868 10722	Mr & Mrs N Redfern
191	M7, Mill Green Borehole	M	TL 23716 09780	Installed by Three Valleys on public access land.
005	Hatfield and London Country Club Workshop	P	TL 28234 08457	Hatfield & London Country Club
265	Park Street, Old Hatfield	M	TL 23410 08778	Installed by Three Valleys on verge of public highway.
266	Hill End Farm, Hatfield House Estate	M	TL 25496 09364	Hatfield House Estate
262	Lee Borehole BHA (32 m. deep)	M	TL 25348 09774	Installed by Agency. Hatfield House Estate
195	M10, Sleafshyde OBH	M	TL 20251 06887	Installed by Three Valleys on public access land.
010b	BH by Block 3 (northernmost) Glinwell's Nursery	P	TL 19458 07443	Glinwell plc
041	Ellenbrook @ North Orbital Road (A414)	M	TL 20882 07164	Access from public highway

292	R Lee, Water Hall gauging station	S	TL 29967 09978	Access from public bridle path
101	River Lee downstream from Essendon Pumping Station (Holwell Bridge)	S	TL 27641 09814	Access from public highway
288	Stream from Arkley Hole spring, upstream of confluence with Lee	S	TL 28976 10021	Woolmers Park
001	Hatfield PWS BH	PWS	TL 22000 07700	Three Valleys Water plc
142	Roestock P.S. (raw water sampling point)	PWS	TL 21000 05900	Three Valleys Water plc
141	Tyttenhanger P.S. (raw water sampling point)	PWS	TL 19820 05720	Three Valleys Water plc
143	Essendon P.S. (raw water sampling point)	PWS	TL 27330 09820	Three Valleys Water plc
144	Waterhall P.S. (raw water sampling point)	PWS	TL 29400 09500	Three Valleys Water plc
298	Broadmeads PWS	PWS	TL 35310 13960	Thames Water Utilities Ltd
295	Amwell End PWS	PWS	TL 35880 13990	Thames Water Utilities Ltd
296	Amwell Hill PWS	PWS	TL 36750 12760	Thames Water Utilities Ltd
297	Amwell Marsh PWS	PWS	TL 37620 12340	Thames Water Utilities Ltd
301	Rye Common PWS	PWS	TL 37950 11130	Thames Water Utilities Ltd
300	Hoddesdon PWS	PWS	TL 37840 08980	Thames Water Utilities Ltd
299	Broxbourne PWS	PWS	TL 37300 07500	Thames Water Utilities Ltd
135	Turnford PWS	PWS	TL 36000 04440	Thames Water Utilities Ltd
M = monitoring borehole, P = private water supply, S = surface water, PWS = public water supply				

Methods of borehole purging, sampling and sample handling are to be detailed in a method statement submitted to the Agency for approval prior to sampling commencing, and are to be in accordance with relevant Agency guidance and practice unless otherwise agreed by the Agency. Analysis of samples is to be carried out by a laboratory accredited to ISO 17025 and using United Kingdom Accreditation Service accredited methods, performance-tested in accordance with Water Research Centre plc (WRc) publication NS30, 'Analytical Quality Control in the Water Industry' (WRc Report NS30, June 1989, ISBN 0902156853). The laboratory will operate a system of routine analytical quality control, preferably based on the use of control charts (see WRc Report Ref: Co4239 'Quality Control Charts in Routine Analysis'). Samples must be analysed within 48 hours of collection. Results are to be reported to the Agency no more than 4 weeks after sampling, in a summarised format to be agreed with the Agency, accompanied by laboratory certificates of analysis, which must state the associated measurement uncertainty.

Table 2. Parameters to be measured and frequency of measurement

Controlled waters	Frequency	Monitoring interval	Parameters to be measured (see Table 3 for abbreviations & symbols)
Groundwater in, or in continuity with, the Chalk aquifer	12 times per calendar year	25-35 days	Water level AOD. Depth to base of borehole where feasible
Groundwater in, or in continuity with, the Chalk aquifer	6 times per calendar year	50-70 days	pH, EC, Cl, Na, TON, BrO <sub>3</sub> , Br temperature, DO
Surface waters	12 times per calendar year	25-35 days	pH, EC, Cl, Na, TON, BrO <sub>3</sub> , Br

Table 3. Precision, bias and limit of detection for each quantity measured

Determinand or measurement	Symbol or abbreviation	Limit of detection (See note A)	Precision (See note A)	Bias (See note A)	Comments
Water level above Ordnance Datum	Water level AOD	Not applicable	To nearest 10mm	See note B	Datumpoints and levels will be supplied
Depth to base of borehole	None	Not applicable	To nearest 200mm	See note B	Datumpoints and levels will be supplied. Measurement not feasible in all boreholes.
Temperature	None	Not applicable	To nearest 0.5°C	See note B	Measured in-situ
Dissolved oxygen	DO	Not applicable	See note B	See note B	Measured in-situ
Log hydrogen ion concentration	pH	Not applicable	See note B	See note B	Measured in-situ
Electrical conductivity	EC	Not applicable	See note B	See note B	Measured in-situ
Chloride	Cl	1mg/l	5%	10%	
Sodium	Na	2mg/l	5%	10%	
Total oxidised nitrogen	TON	0.2mg/l	5%	10%	
Bromate as BrO <sub>3</sub>	BrO <sub>3</sub>	0.001mg/l	5%	10%	
Bromide	Br	0.005mg/l	5%	10%	

Notes to Table 3:

A. As defined in WRc report NS30.

B. Field instrument to be calibrated in accordance with manufacturer's instructions.

Once the results of the Assessment Actions have been obtained, further work will be required to review possible Remedial Treatment Actions, and these will be specified in subsequent Remediation Notices.

**2. The Assessment Action listed below addresses the both the Bromate Pollutant Linkage (number 1) and the Bromide Pollutant Linkage (number 2) identified in Schedule 3.**

- E The following Assessment Action is required to characterise in detail the Bromide and Bromate Pollutant Linkages identified to establish what would need to be achieved by Remedial Treatment Actions. **An Assessment Action must be undertaken to monitor as specified below.** This action must be started on 15<sup>th</sup> February 2006 and continued until 14<sup>th</sup> February 2011.

The Assessment Action is to provide quality-assured monitoring data and report it to the Agency every two months at the locations identified in Table 4 below for the parameters listed in Table 2 above for groundwater, to the detection limits, precision and bias in Table 3 above.

Table 4. Locations to be monitored under Assessment Action E

Loc ref	Site name	Type	NGR	Ownership
244	Pound Farm, Sandridge	M	TL 16872 10716	Borehole site and access route leased to Agency by the Salvation Army Trustee Company
223	SLC10, St Leonard's Court	M	TL 17134 10440	Beechgrove (Sandridge) Management Ltd
082	MW4, St Leonard's Court	M	TL 17121 10427	Beechgrove (Sandridge) Management Ltd
221	SLC8, St Leonard's Court	M	TL 17074 10487	Beechgrove (Sandridge) Management Ltd
028	Orchard Garage	P	TL 17523 10286	Orchard Garage
225	GW 12, top of House Lane	M	TL 17152 10365	Hertfordshire County Council
226	GW 13, Harefield House	M	TL 17748 10035	Borehole site and access route leased to Agency by Beaufort Trust Corporation Ltd and Lady Mary June Meaney
227	GW 14, beside Jersey Farm pond	M	TL 17754 09706	Public access land owned by St Albans District Council
019	Nashes Farm	P	TL 17958 09626	Mr Adrian Sheriff
166	Hatfield Quarry, WPG16	M	TL 20241 09741	Cemex UK
067	Hatfield Quarry, WM12 – Lower level (P2)	M	TL 19389 09580	Cemex UK
M = monitoring borehole, P = private water supply, S = surface water, PWS = public water supply				

Procedures for sampling, sample handling and sample analysis are to be as specified for Action D above.

Once the results of the Assessment Action E have been obtained, further work will be required to review possible Remedial Treatment Actions, and these will be specified in subsequent Remediation Notices.



### **SCHEDULE 3**

(Particulars of the significant harm/pollution of controlled waters and particulars of substances (Regulation 4(1)(e) and (f))

The particulars of the pollutant linkages that form the basis of the determination of land as Contaminated Land and to which this Notice relate are set out below:

<b>Pollutant linkage number</b>	<b>Pollutant</b>	<b>Source location</b>	<b>Pathway</b>	<b>Receptor</b>	<b>Pollution of controlled waters</b>
1	Bromate	Soil at land identified in Schedule 1	Unsaturated zone and groundwater contained in, or in hydraulic continuity with the Chalk aquifer	Controlled waters: Groundwater contained in, or in hydraulic continuity with the Chalk aquifer.	Pollution of controlled waters is being caused.
2	Bromide	Soil at land identified in Schedule 1.	Unsaturated zone and groundwater contained in, or in hydraulic continuity with the Chalk aquifer	Controlled waters: Groundwater contained in, or in hydraulic continuity with the Chalk aquifer.	Pollution of controlled waters is being caused.

#### **SCHEDULE 4**

(Reasons for enforcing authority's decision on remediation requirements (Regulation 4(1)(g))

The Remedial Treatment Actions which will enable the land and controlled waters to be effectively remediated, to the required standards, cannot yet be identified. This is because specific Assessment Actions are needed to characterise in detail the SPLs and to collect data to evaluate the likely effectiveness of Remedial Treatment Actions. Schedule 2 identifies a series of Assessment Actions that will enable Remedial Treatment Actions to be specified in one or more subsequent Remediation Notices.

## **SCHEDULE 5**

(other appropriate persons (Section 78E(3) of the 1990 Act and Regulation 4(1)(h), (i) and (j))

The Agency therefore considers that the following are the appropriate persons responsible for all of the assessment actions described in Schedule 2 of this Notice for the following reasons

1. Redland Minerals Limited of The Old Rectory, Misterton, Lutterworth, Leicester LE17 4JP.

Excluded from the bromide SPL by exclusion test 3, “sold with information” because Crest Nicholson Residential plc bought the land with the broad measure of the presence of the pollutant.

Solely responsible for the bromate SPL by virtue of causing the pollutant to be in the land.

Proportion of overall cost to be borne: All costs associated with the bromate SPL because Redland Minerals Limited is the only Class A person for the bromate SPL. Therefore, all costs related to actions 1A to 1D are to be borne by Redland Minerals Limited as they are single linkage actions and 50% of the costs for the bromide SPL because assessment action 2E is a shared action.

2. Crest Nicholson Residential plc of Crest House, 39 Thames Street, Weybridge, Surrey, KT13 8JL.

Solely responsible for bromide SPL by virtue of knowingly permitting the pollutant to be in the land.

Proportion of overall cost to be borne: 50% of the costs of the bromide SPL because assessment action 2E is a shared action.

## **SCHEDULE 6**

(Names and addresses of owners and occupiers of the contaminated land to which this notice relates and persons whose consent is required for remediation purposes (Regulation 4(1)(k) and (l)))

The owners and occupiers of the contaminated land are:

Freehold owner of land: Beechgrove (Sandridge) Management Limited

The names and addresses of persons whose consent is required under section 78G(2) of the 1990 Act:

Mr P Hyde (Director), Beechgrove (Sandridge) Management Ltd, 18 St Leonards Court, House Lane, Sandridge, St Albans, Herts AL4 9UY
Beaufort Trust Corporation Ltd and Lady Mary June Meaney, 11 Church End, Sandridge, St Albans, Herts AL4 9DL
Territorial Property Director, Salvation Army Trustee Company. 101 Newington Causeway, London SE1 6BN
Mr R Irving, Orchard Garage, Woodcock Hill, Sandridge, St Albans, Herts AL4 9EE
Mr C H Franklin, Principal Land Agent, Hertfordshire County Council, County Hall, Pegs Lane, Hertford SG13 8DN
Mr A Sheriff, Nashes Farm House, Sandridge, St Albans, Herts AL4 9HF
Mr & Mrs N Redfern, Old Cottage, Green Lanes, Hatfield, Herts AL10 9BH
Mr J Takeda (fao Mr Peter Creary), Hatfield and London Country Club, Bedwell Park, Essendon, Hatfield, Herts AL9 6HN
Mr P Clegg, Chief Executive, Estate Office, Hatfield Park , , Hatfield, Herts AL9 5NQ
Mr S Redwood, Estates and Development Manager, RMC Materials Ltd, Cemex UK Operations, Cemex House, Evreux Way, Rugby, Warwickshire CV21 2DT
Mr M Simon, Glinwell plc, Hatfield Road, Smallford, nr St Albans, Herts AL4 0HD
Mr J Godbold (fao Mr Neil Agnew), Woolmers Park, Letty Green, Herts SG14 2NX
Mr A Hodson, Solicitor, Three Valleys Water plc, PO Box 48, Bishops Rise, Hatfield, Herts AL10 9HL
Mr B Connorton, Raw & Waste Water Manager, Thames Water Utilities Ltd, Clearwater Court, Vastern Road, Reading, Berks RG1 8DB

## **SCHEDULE 7**

(Offences, penalties and Appeals)

### **Offences, Penalties and Appeals (Regulation 4(1),(n) and (o), Regulation 4(2)(a), (b) and (c))**

#### **Offences and Penalties (section 78M of the 1990 Act)**

- Under section 78M of the 1990 Act, it is an offence to fail, without reasonable excuse, to comply with any of the requirements of this Notice.
- A person who commits such an offence is liable to the following penalties:
  - Where the contaminated land to which the notice relates is “industrial, trade or business premises” as defined in section 78M(6) of the 1990 Act, on summary conviction, to a fine not exceeding £20,000 or such greater sum as the Secretary of State or National Assembly of Wales, may from time to time by order substitute and to a further fine of an amount equal to one-tenth of that sum for each day on which the failure continues after conviction of the offence and before the enforcing authority has begun to exercise its powers by virtue of section 78N(3)(c) of the 1990 Act.
  - Where the contaminated land to which the notice relates is not “industrial, trade or business premises”, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to one-tenth of level 5 on the standard scale for each day on which the failure continues after conviction of the offence and before the enforcing authority has begun to exercise its powers by virtue of section 78N(3)(c).

#### **Right of Appeal (section 78L of the 1990 Act)**

You have a right of appeal against this Notice, under section 78L of the 1990 Act. If you wish to appeal you must do so, within the period of twenty-one days beginning with the day on which the notice is served:

- (a) if it was served by a local authority, to a magistrates’ court; or
- (b) if it was served by the Environment Agency, to the Secretary of State or National Assembly for Wales.

#### **Appeals to a Magistrates’ Court (Regulation 8)**

- Regulation 8 states the following:
  - (1) An appeal under section 78L(1) to a magistrates’ court against a remediation notice shall be by way of compliant for an order and, subject to section 78L(2) and (3) and regulations 7(3), 12 and 13, the Magistrates’ Courts Act 1980 shall apply to the proceedings.
  - (2) An appellant shall, at the same time as he makes a compliant,-
    - (a) file a notice (“notice of appeal”) and serve a copy of it on –

- (i) the enforcing authority;
- (ii) any person named in the remediation notice as an appropriate person;
- (iii) any person named in the notice of appeal as an appropriate person;
- (iv) any person named in the remediation notice as the owner or occupier of the whole or any part of the land to which the notice relates;
- (b) file a copy of the remediation notice to which the appeal relates and serve a copy of it on any person named in the notice of appeal as an appropriate person who was not so named in the remediation notice; and
- (c) file a statement of the names and addresses of any persons falling within paragraph (ii), (iii) or (iv) of sub-paragraph (a) above.
- (3) The notice of appeal shall state the appellant's name and address and the grounds on which the appeal is made.

[Note: "file" means deposit with the justices' chief executive in England or Justices clerk in Wales]

- Further information relating to appeals to a magistrates' court is given in Circular 02/2000, Annex 4 "Guide to the Contaminated Land (England) Regulations 2000" or relevant National Assembly for Wales Guidance.

### **Appeals to the Secretary of State (Regulation 9)**

- Regulation 9 states the following:
  - (1) An appeal to the Secretary of State (or National Assembly for Wales) against a remediation notice shall be made to him by a notice ("notice of appeal") which shall state –
    - (a) the name and address of the appellant;
    - (b) the grounds on which the appeal is made; and
    - (c) whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.
  - (2) The appellant shall, at the same time as he serves a notice of appeal on the Secretary of State (or National Assembly for Wales),-
    - (a) serve a copy of it on –
      - (i) the Environment Agency;
      - (ii) any person named in the remediation notice as an appropriate person;
      - (iii) any person named in the notice of appeal as an appropriate person; and
      - (iv) any person named in the remediation notice as the owner or occupier of the whole or any part of the land to which the notice relates;
 and serve on the Secretary of State (or National Assembly for Wales) a statement of the names and addresses of any persons falling within paragraph (ii), (iii) or (iv) above; and
    - (b) serve a copy of the remediation notice to which the appeal relates on the Secretary of State (or National Assembly for Wales) and on any person named in the notice of appeal as an appropriate person who is not so named in the remediation notice.
- Appeals to the Secretary of State (England) should be submitted to the Planning Inspectorate. Their current address and telephone number are as follows: The Planning Inspectorate, Room 4/19, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 SPN. Tel: 0117 372 6372. Appeals to the Secretary of State (Wales) should be submitted to the National Assembly for

**Grounds of Appeal (Section 78L of the 1990 Act and Regulation 7)**

- (1) The grounds of appeal against a remediation notice pursuant to section 78L of the 1990 Act are any of the following:-
  - (a) that, in determining whether any land to which the notice relates appears to be contaminated land, the local authority-
    - (i) failed to act in accordance with guidance issued by the Secretary of State (or National Assembly for Wales) under section 78A(2), (5) or (6); or
    - (ii) whether by reason of such a failure or otherwise, unreasonably identified all or any of the land to which the notice relates as contaminated land;
  - (b) that, in determining a requirement of the notice, the enforcing authority-
    - (i) failed to have regard to guidance issued by the Secretary of State (or National Assembly for Wales) under section 78E(5); or
    - (ii) whether by reason of such a failure or otherwise, unreasonably required the appellant to do any thing by way of remediation;
  - (c) that the enforcing authority unreasonably determined the appellant to be the appropriate person who is to bear responsibility for any thing required by the notice to be done by way of remediation;
  - (d) subject to paragraph (2) below, that the enforcing authority unreasonably failed to determine that some person in addition to the appellant is an appropriate person in relation to any thing required by the notice to be done by way of remediation;
  - (e) that, in respect of any thing required by the notice to be done by way of remediation, the enforcing authority failed to act in accordance with guidance issued by the Secretary of State (or National Assembly for Wales) under section 78F(6);
  - (f) that, where two or more persons are appropriate persons in relation to any thing required by the notice to be done by way of remediation, the enforcing authority-
    - (i) failed to determine the proportion of the cost stated in the notice to be the liability of the appellant in accordance with guidance issued by the Secretary of State (or National Assembly for Wales) under section 78F(7); or
    - (ii) whether, by reason of such a failure or otherwise, unreasonably determined the proportion of the cost that the appellant is to bear;
  - (g) that service of the notice contravened a provision of subsection (1) or (3) of section 78H (restrictions and prohibitions on serving remediation notices) other than in circumstances where section 78H(4) applies;
  - (h) that, where the notice was served in reliance on section 78H(4) without compliance with section 78H(1) or (3), the enforcing authority could not reasonably have taken the view that the contaminated land in question was in such

a condition by reason of substances in, on or under the land, that there was imminent danger of serious harm, or serious pollution of controlled waters, being caused;

- (i) that the enforcing authority has unreasonably failed to be satisfied, in accordance with section 78H(5)(b), that appropriate things are being, or will be, done by way of remediation without service of a notice;
- (j) that any thing required by the notice to be done by way of remediation was required in contravention of a provision of section 78J (restrictions on liability relating to the pollution of controlled waters);
- (k) that any thing required by the notice to be done by way of remediation was required in contravention of a provision of section 78K (liability in respect of contaminating substances which escape to other land);
- (l) that the enforcing authority itself has power, in a case falling within section 78N(3)(b), to do what is appropriate by way of remediation;
- (m) that the enforcing authority itself has power, in a case falling within section 78N(3)(e), to do what is appropriate by way of remediation;
- (n) that the enforcing authority, in considering for the purposes of section 78N(3)(e), whether it would seek to recover all or a portion of the cost incurred by it in doing some particular thing by way of remediation-
  - (i) failed to have regard to any hardship which the recovery may cause to the person from whom the cost is recoverable or to any guidance issued by the Secretary of State (or National Assembly for Wales) for the purposes of section 78P(2); or
  - (ii) whether by reason of such a failure or otherwise, unreasonably determined that it would decide to seek to recover all of the cost;
- (o) that, in determining a requirement of the notice, the enforcing authority failed to have regard to guidance issued by the Environment Agency under Section 78V(1);
- (p) that a period specified in the notice within which the appellant is required to do anything is not reasonably sufficient for the purpose;
- (q) that the notice provides for a person acting in a relevant capacity to be personally liable to bear the whole or part of the cost of doing any thing by way of remediation, contrary to the provisions of section 78X(3)(a);
- (r) that service of the notice contravened a provision of section 78YB (interaction of Part IIA of the 1990 Act with other enactments), and-
  - (i) in a case where subsection (1) of that section is relied on, that it ought reasonably to have appeared to the enforcing authority that the powers of the Environment Agency under section 27 might be exercised;



- (ii) in a case where subsection (3) of section 78YB is relied on, that it ought reasonably to have appeared to the enforcing authority that the powers of a waste regulation authority or waste collection authority under section 59 might be exercised; or
  - (s) that there has been some informality, defect or error in, or in connection with, the notice, in respect of which there is no right of appeal under the grounds set out in sub-paragraphs (a) to (r) above.
- (2) A person may only appeal on the ground specified in paragraph (1)(d) above in a case where-
- (a) the enforcing authority has determined that he is an appropriate person by virtue of subsection (2) of section 78F and he claims to have found some other person who is an appropriate person by virtue of that subsection;
  - (b) the notice is served on him as the owner or occupier for the time being of the contaminated land in question and he claims to have found some other person who is an appropriate person by virtue of that subsection; or
  - (c) the notice is served on him as the owner or occupier for the time being of the contaminated land in question, and he claims that some other person is also an owner or occupier for the time being of the whole or part of that land.
- (3) If and in so far as an appeal against a remediation notice is based on the ground of some informality, defect or error in, or in connection with, the notice, the appellate authority shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

### **Suspension of Remediation Notice Upon Appeal (Regulation 14)**

Once an appeal has been duly made, the relevant remediation notice is suspended until the appeal is finally determined or is withdrawn (abandoned) by you. “Duly made” for this purpose means that an appeal must be made within the time limit, and in accordance with the Regulations.