

2009 No.

CORPORATION TAX

Corporation Tax (Land Remediation Relief) Order 2009

Made - - - - ***
Laid before the House of Commons ***
Coming into force - - ***

The Treasury make the following Order in exercise of powers conferred by sections 1145(2) and (3), 1146(3A) and (3B), 1146A(3) and (4), 1147(3), (3A) and (3B) and 1149(3), (3A) and (3B) of the Corporation Tax Act 2009(a).

Citation, commencement and effect

1.—(1) This Order may be cited as the Corporation Tax (Land Remediation Relief and Derelict Land Remediation Relief) Order 2009.

(2) This Order shall come into force on [] August 2009 and shall have effect in relation to expenditure incurred on or after 1st April 2009.

Interpretation

2. In this Order—

“the Act” means the Corporation Tax Act 2009;

“Japanese Knotweed” is the plant matter also known as *Fallopia japonica* and *Reynoutria japonica*;

“Radon” means the element whose chemical symbol is Rn and whose atomic number is 86;

“Arsenic” means the element whose chemical symbol is As and whose atomic number is 33;

“Arsenical compounds” mean any compound one of whose constituent elements is arsenic.

Land in a contaminated state

3.—(1) Section 1145(2) (land “in a contaminated state”) of the Act shall not apply where the following are present in, on, or under the land—

- (a) Japanese Knotweed,
- (b) radon,
- (c) arsenic, or
- (d) arsenical compounds.

(2) This article is limited so that it has effect only in relation to—

- (a) that part of the land in which the items listed in paragraph (1) are present, and

(a) 2009 c. XX. These provisions were amended by section XX and Schedule XX of the Finance Act 2009 c. XX.

- (b) expenditure incurred for the purpose of remedying or mitigating the effects of relevant harm caused by the presence of one or more of the listed items.

Relevant contaminated land remediation: specified activity

4.—(1) For the purposes of condition C in section 1146 (“relevant contaminated land remediation”) of the Act a specified activity is the removal of material from the land in question to a licensed landfill site.

- (2) “Material” means material which contains or may contain Japanese Knotweed.
- (3) “Licensed landfill site” means a site in respect of which a permit has been granted by the relevant authority under the following—
- (a) the Environmental Permitting (England and Wales) Regulations 2007(a),
 - (b) the Pollution Prevention and Control (Scotland) Regulations 2000(b),
 - (c) the Pollution Prevention and Control (Northern Ireland) Regulations 2003(c), or
 - (d) Council Directive 1999/31/EC of 26th April 1999 on the landfill of waste(d).

Relevant contaminated land remediation: specified enactments

5. For the purposes of condition C in section 1146 of the Act specified enactments are provided by the following Table—

<i>Statute</i>	<i>Section</i>	<i>Explanatory note</i>
Building Act 1984 ⁽¹⁾	section 77	dangerous buildings
	section 79	ruinous and dilapidated buildings and neglected sites
Environmental Protection Act 1990 ⁽²⁾	section 78E	duty of enforcing authority to require remediation of contaminated land
	section 79	statutory nuisances and inspections therefore
	section 80	summary proceedings for statutory nuisances
	section 81	supplementary provisions
	section 82	summary proceedings by persons aggrieved by statutory nuisances
Town and Country Planning Act 1990 ⁽³⁾	section 215	power to require proper maintenance of land
Planning (Listed Buildings and Conservation Areas) Act 1990 ⁽⁴⁾	section 48	repair notices preliminary to acquisition under section 47
Town and Country Planning (Scotland) Act 1997 ⁽⁵⁾	section 179	notice requiring proper maintenance of land
Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 ⁽⁶⁾	section 43	repair notices preliminary to acquisition under section 42
Building (Scotland) Act 2003 ⁽⁷⁾	section 28	defective buildings
Pollution Control and Local Government (Northern Ireland) Order 1978 ⁽⁸⁾	article 65	defective buildings
	article 66	ruinous and dilapidated buildings

(a) S.I. 2007/3538.
 (b) S.S.I. 2003/323.
 (c) S.R. 2003/46.
 (d) OJ L 182, 16.7.1999 p.1-19.

Planning (Northern Ireland) Order 1991 ⁽⁹⁾	article 39	orders requiring discontinuance of use or alteration or removal of buildings or works
	article 109	compulsory acquisition of listed buildings

⁽¹⁾ 1984 c. 55.

⁽²⁾ 1990 c. 43.

⁽³⁾ 1990 c. 8.

⁽⁴⁾ 1990 c. 9.

⁽⁵⁾ 1997 c. 8.

⁽⁶⁾ 1997 c. 9.

⁽⁷⁾ 2003 asp. 8.

⁽⁸⁾ S.I. 1978/1049 (N.I 19).

⁽⁹⁾ S.I. 1991/1220 (N.I 11).

Relevant derelict land remediation: specified purposes

6.—(1) For the purposes of Condition B in section 1146A (“relevant derelict land remediation”) of the Act the specified purposes are the removal of—

- (a) post tensioned concrete heavyweight construction,
- (b) building foundations and machinery bases,
- (c) reinforced concrete pilecaps,
- (d) reinforced concrete basements, or
- (e) redundant services which are located below the ground.

(2) “Services” means any pipes, wiring, cables, tunnels or other similar equipment or infrastructure used in relation to the following—

- (a) gas supply,
- (b) water supply, drainage or sewerage,
- (c) electricity supply, or
- (d) telecommunications.

Exception from condition that land be in a contaminated state at time of acquisition

7. Where land is in a contaminated state by virtue of the presence on or under it of Japanese Knotweed the following conditions need not be met—

- (a) condition B as specified by section 1147(3)(a) (deduction for capital expenditure), and
- (b) condition B as specified by section 1149(3)(a) (additional deduction for qualifying land remediation expenditure).

Name
Name

Date Two of the Lords Commissioners to Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Sections 1143 – 1179 of the Corporation Tax Act 2009 (c. XX) contains re-written provisions relating to Land Remediation Relief. Section XX and Schedule XX of the Finance Act 2009 (c. XX) amends these provisions and creates powers, which are being exercised in this Order.

This Order will have retrospective effect as it applies in relation to qualifying expenditure in relation to Land Remediation Relief incurred on or after 1st April 2009.

Article 2 sets out the meaning of Japanese Knotweed, radon, arsenic and arsenical compounds.

Article 3 provides that section 1145(2) does not apply to Japanese Knotweed, radon, arsenic and arsenical compounds so that land may be “in a contaminated state” for the purposes of section 1145 by reason of the presence in, on or under it of Japanese Knotweed, radon, arsenic and arsenical compounds. The dis-application is limited so that it applies only to that part of the land where one of the listed substances is present and applies only in relation to expenditure incurred for the purposes of remedying the effects of relevant harm caused by the presence of one of the listed items.

Article 4 provides that for the purposes of section 1146(3A)(a) the removal of material which contains or may contain Japanese Knotweed from the land in question to a licensed landfill site is a specified activity that is not relevant contaminated land remediation under section 1146.

Article 5 sets out a list of enactments. Activities required by or by virtue of any of these enactments are not relevant contaminated land remediation under section 1146.

Article 6 specifies purposes falling with Condition B in section 1146A(3) (“relevant derelict land remediation”); Condition B is one of the conditions that must be met if an activity is to amount to relevant derelict land remediation for the purposes of the section.

Article 7 provides that the conditions in section 1147(3)(a)(deduction for capital expenditure) and 1149(3)(a) (the land is in a contaminated state at the time of acquisition) need not be met where land is in a contaminated state by reason of the presence of Japanese Knotweed. This removes for those cases where land is in a contaminated state by reason of the presence of Japanese Knotweed the condition that all or part of the land was in a contaminated state at the time of acquisition.

A full impact assessment has been produced for this instrument. It can be located at [].