

PLANNING

NEW ENVIRONMENTAL REGULATIONS ARE NOW IN FORCE

“The Polluter Pays”

If you or your business carries out any activity that causes damage to land, water or biodiversity, you will have to remedy the damage under the Environmental Damage (Prevention and Remediation) Regulations 2009 came into force on 1 March 2009. These regulations implement the Environmental Liability Directive in England and introduce for the first time “strict liability” for the costs of dealing with cases of “environmental damage” attributable to the operator of the relevant activity and impose financial penalties.

The Regulations apply to operators of commercial activities including permitted installations, waste management operations, discharges requiring authorisation, use and storage of dangerous substances, transport by road or rail of dangerous or polluting substances and air polluting activities, whether you are a private business, a public sector enterprise or a voluntary or privately organised activity.

The Regulations, which only apply to damage that takes place after 1st March 2009, supplement existing legislation relating to liability for damage to water, biodiversity, land and the environment. They apply to cases of actual or imminent environmental damage to protected species or habitats, SSSIs, surface water and ground water and land (resulting in human health risk).

Various remediation measures are required under the Regulations,

primary, complementary and compensatory.

There are defined grounds for appeal against this strict liability, although these are limited in scope.

Additional rule changes are now also in place to extend greater protection to at risk species.

If you would like strategic advice on how to minimise the risks of potential impact of these Regulations, please contact Bernadette Hillman in our planning team on 01727 735658 or via email on BH@dolegal.co.uk

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