

CONTAMINATED LAND

Guidance notes to bring to your attention the implications of buying
Property affected by contamination

Please note that the following information is for guidance purposes only. It is not intended to be a comprehensive interpretation of the effects of the Environmental Protection Act 1990 or any amendment or enactment thereof. If you do have any particular concerns you should seek specialist advice.

There are more than 400,000 potentially contaminated sites in England and Wales. "Contaminated Land" means, land that has been contaminated with harmful substances such as Radon gas, radioactivity, toxic waste, to name but a few. For example, landfill sites, sites which have been used for industrial use, waste dumps and even land which is subject to flooding and subsidence might be, or become contaminated. Any landfill site could be partially unstable and produce harmful gases. It is only in recent years that legislation has been passed to control the dumping of waste and toxic substances. No such control existed before this.

The Environmental Protection Act 1990 imposes a statutory duty upon local authorities to inspect and identify contaminated land, and to implement remediation measures wherever any such contamination is discovered.

Why should I be concerned?

If the local authority becomes aware that any land or property is contaminated, it can issue a Remediation Notice on the landowner and the cost of "cleaning up" could fall on you as the current owner of your property. It could also adversely affect the value of your property. Failure to comply with a Remediation Notice is a criminal offence. *You should also be aware that the costs of "cleaning up" can result in expenditure exceeding the value of your property.*

Why am I responsible for cleaning up?

Under the legislation any person who caused or willingly permitted contaminative substances to be in, on or under the land is responsible and the local authority has the power to enforce the law. However, if the person who actually committed the offence cannot be found (after reasonable enquiry) then the *owner or occupier for the time being* of the land or property can be held responsible.

Local authorities are also now required to keep a register of contaminated land. The concept is, however, in its infancy, and such registers are by no means complete, nor is it likely to be for some years to come. This means that the local authority search which we will carry out on your behalf at the start of your purchase transaction will be incomplete in this regard.

We would strongly advise you therefore to consider an environmental search which can be carried out at reasonable cost. We can arrange this for you at cost price. The search would be done by a specialist company that has access to records dating back hundreds of years. It will reveal the likelihood of flooding in the area and of subsidence and ground heave for example. It will not however reveal the existence of *illegal* tipping of toxins and poisonous substances.

It is possible to obtain environmental insurance which would protect you from remediation costs arising from *undetected* contamination and it is more cost effective to take this out at the same time as the search itself.

Please indicate which search you require by completing and signing the section below. Please remember to enclose with this form your cheque for the appropriate sum to cover the cost of the search or searches requested (*NB: all prices subject to suppliers' increase from time to time*)

1. Environmental with flood search - **£49.00**
2. Flood search only - **£17.75**
3. Environmental search with insurance (prices available on request – cost will depend on type of property and extent of land searched)

Address of property

.....

Date.....

*Please delete as appropriate

- 1 Please arrange an environmental search on the above property with/without insurance.
- 2 Please arrange a flood search only on the above property.
- 3 We enclose a cheque made payable to **Hoffman Male** in the sum of £.....
- 4 Please do not make an environmental search. I/We have read and understood the foregoing notes and I/we are aware of the possible consequences of not carrying out such a search.

Signed.....

Signed.....