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Homeowners could be liable for the cost of cleaning up contaminated land

- ∞ House of Lords ruling leaves way open for clean-up costs to be passed on to current owners
- ∞ New duties for Local Authorities to inspect land and increased use of brown field sites could see more and more homeowners struggle to meet the cost of remediation

Homeowners whose properties have been built on land contaminated by previous industrial use could be liable for the cost of the clean up warns Stephen Tromans*, in his new book *'Contaminated Land'*, co-authored by Robert Turrall-Clarke and published by Sweet & Maxwell.

According to barrister Stephen Tromans, a House of Lords ruling in a case between Transco, now known as National Grid Gas, and the Environment Agency has meant that current private owners of houses built on land such as former gas-works sites may be faced with meeting the cost of cleaning up the land if it is found to be contaminated.

Writing in *'Contaminated Land'*, published by Sweet & Maxwell, a Thomson business (NYSE: TOC; TSX: TOC), Stephen Tromans says that the ruling establishes an important point of principle in determining who will cover the cost of cleaning up contamination caused by the old nationalised industries, such as gas, coal, steel, electricity and water

Says Stephen Tromans: "The Transco case has far reaching implications for some homeowners whose properties have been built on former sites such as gas-works, power stations or landfills. With Government policy favouring development on brownfield land this ruling could have consequences for an increasing number of homeowners."

The House of Lords ruled that Transco was not liable to meet the costs of the remediation of land which had been contaminated by former gas-works that had sold off the land for development before privatisation of the gas industry. As Transco had never owned the land the House of Lords ruled that the 1990 Environmental Protection Act did not apply.

Stephen Tromans comments: "In cases where the company who developed the land is no longer in existence the current owner is now liable for the cost of the clean up. The same principle would apply to land contaminated by other former nationalised bodies, and possibly to former local authorities which no longer exist, who operated polluting activities such as landfill sites or incinerators which left land contaminated."

In the Transco case the cost per property was as much as almost £70,000 per property for removing gas tar waste from the affected gardens.

Stephen Tromans explains that legislation which came into force in 2000, requiring Local Authorities to inspect land periodically for evidence of ground contamination will increase the likelihood of contaminated land being discovered.

Comment Stephen Tromans: “The new duty for Local Authorities to inspect land will mean that contaminated land will be discovered more frequently. Obviously this will mean that increasing numbers of homeowners could be faced with the significant cost of cleaning up their land.”

“Although the legislation came into force in April 2000, it is only now we are starting to see appreciable numbers of such sites being formally identified and clean-up being required.”

“If a Local Authority is unable to trace the original polluter they are able to pass on the cost to the current owner provided that this will not cause them hardship.”

“This may provide very little protection for homeowners. Even if you have only modest savings set aside you may be expected to use them to help to cover the cost, or the authority may take a charge over your house to secure the cost.”

“The Government has so far failed to respond to the House of Lords ruling but a decision needs to be made on whether it is fair to pass this cost on to private individuals in this way.”

***NB Any reference to the expert or his/her views should be sourced to:
“Stephen Tromans, Editor of ‘Contaminated Land’ by Sweet & Maxwell”**

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Notes to editors:

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