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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
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Published 11 March 2016

Updated: 10 September 2025 - [See all updates](#)

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CIRD61020 - Land Remediation Relief: What is "land in a contaminated state"?: Japanese Knotweed - change of view

This guidance applies to
expenditure incurred on or before 31
March 2009.

HMRC published the following change of view statement on 24 November 2008.

“2.1. Japanese knotweed (“Fallopia japonica”) was introduced to the UK in Victorian times

both as an ornamental garden plant and also to stabilize embankments along railways and canals. Lacking natural predators in the UK and capable of regenerating from a small piece of rhizome, it is especially difficult to eradicate. It is also unusually invasive and destructive: for example, it is capable of pushing through tarmac.”

“2.2. Japanese knotweed is listed on Schedule 9 and subject to section 14 of the Wildlife and Countryside Act 1981. It is an offence to plant, or cause Japanese knotweed to grow, in the wild.”

“2.3. Under the existing legislation, land is contaminated for the purposes of LRR if there is a substance present that is causing, or has the potential to cause, harm.”

“2.4. The term substance is defined at Paragraph 31 (1) of Schedule 22 to the Finance Act 2001, which states that:”

““substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.

2.5. In the Corporate Intangibles, Research and Development Manual, HMRC states at CIRD60135 (**see below**) that it interprets this as meaning that that:”

““A substance is matter having uniform properties. So, for example, asbestos is a substance but life forms are not.””

“2.6. HMRC now accepts that Japanese knotweed is sufficiently invasive and destructive that it satisfies the “harm” test and that land infested with Japanese knotweed is contaminated for the purposes of LRR.

2.7. The Government has previously announced its intention to extend the scope of LRR to provide relief for expenditure incurred on clearing Japanese knotweed, excluding clearance by removal to landfill sites.”

“2.8. HMRC now accepts that the costs of clearing Japanese knotweed will qualify for relief. However, the Government believes that it should legislate to provide greater certainty about the circumstances in which LRR can be claimed.”

“2.9. Under the existing LRR there is no restriction on the method of remediation and currently the costs of removal to a landfill site qualify for LRR.

2.10. As with any contaminant, claims for relief in respect of clearing Japanese knotweed must satisfy all of the other legislative tests. For example, relief is not available where the Japanese knotweed was planted by the claimant (or a connected party) or where it spread to the site during the period of ownership, for instance by fly-tipping.”

“2.11. HMRC will settle any open claims for LRR in respect of Japanese knotweed on this basis. It will approach any new claims for in-date years on the same basis.”

The reference to [CIRD60135](https://www.gov.uk/hmrc-internal-manuals/cird60135) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird60135>) is to the version of the guidance that was current at the time the change of view statement was published. The current interpretation of what is a substance is at [CIRD61005](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird61005) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird61005>).

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