



Environmental Protection Act 1990

1990 CHAPTER 43

^{F1}[PART IIA

CONTAMINATED LAND

^{F2}[78G Grant of, and compensation for, rights of entry etc. **E+W**

- (1) A remediation notice may require an appropriate person to do things by way of remediation, notwithstanding that he is not entitled to do those things.
- (2) Any person whose consent is required before any thing required by a remediation notice may be done shall grant, or join in granting, such rights in relation to any of the relevant land or waters as will enable the appropriate person to comply with any requirements imposed by the remediation notice.
- (3) Before serving a remediation notice, the enforcing authority shall reasonably endeavour to consult every person who appears to the authority—
 - (a) to be the owner or occupier of any of the relevant land or waters, and
 - (b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights,concerning the rights which that person may be so required to grant.
- (4) Subsection (3) above shall not preclude the service of a remediation notice in any case where it appears to the enforcing authority that the contaminated land in question is in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of controlled waters, being caused.
- (5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the appropriate person compensation of such amount as may be determined in such manner as may be prescribed.

Status: Point in time view as at 30/05/2012. There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

Changes to legislation: Environmental Protection Act 1990, Section 78G is up to date with all changes known to be in force on or before 04 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A above in relation to compensation under that section.
- (7) In this section, “relevant land or waters” means—
- (a) the contaminated land in question;
 - (b) any controlled waters affected by that land; or
 - (c) any land adjoining or adjacent to that land or those waters.]

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F2** Pt. IIA (ss. 78A-78YC) inserted (in force at 21.9.1995 for certain purposes only, at 1.4.2000 for E. in so far as not already in force, at 14.7.2000 for S. for certain purposes and otherwise 14.7.2000) by 1995 c. 25, s. 57 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3; S.I. 2000/340, art. 2(a); S.S.I. 2000/180, art. 2(1)(a)(2); S.I. 2000/1986, art. 2

Modifications etc. (not altering text)

- C5** Pt. IIA (ss. 78A-78YC) applied (with modifications) (S.) (1.4.2007 for certain purposes, 30.10.2007 otherwise) by The Radioactive Contaminated Land (Scotland) Regulations (S.S.I. 2007/179), regs. 1(1)(2), 2-15 (as amended: (10.12.2007) by S.I. 2007/3240, reg. 3 (with reg. 2); (26.6.2009) by S.S.I. 2009/202, regs. 1, 2; (30.9.2010) by S.I. 2010/2153, regs. 1, 2, 3; (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by The Nuclear Installations (Liability for Damage) Order 2016 (S.I. 2016/562), art. 1(2), Sch. 2 para. 11 (with art. 40); (22.5.2019) by The Radiation (Emergency Preparedness and Public Information) Regulations 2019 (S.I. 2019/703), reg. 1(1), Sch. 10 para. 8 (with reg. 3))

^{F2}^{F1}78G Grant of, and compensation for, rights of entry etc. **S**

- (1) A remediation notice may require an appropriate person to do things by way of remediation, notwithstanding that he is not entitled to do those things.
- (2) Any person whose consent is required before any thing required by a remediation notice may be done shall grant, or join in granting, such rights in relation to any of the relevant land or [^{F3}water environment] as will enable the appropriate person to comply with any requirements imposed by the remediation notice.
- (3) Before serving a remediation notice, the enforcing authority shall reasonably endeavour to consult every person who appears to the authority—
 - (a) to be the owner or occupier of any of the relevant land or [^{F4}water environment], and
 - (b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights, concerning the rights which that person may be so required to grant.
- (4) Subsection (3) above shall not preclude the service of a remediation notice in any case where it appears to the enforcing authority that the contaminated land in question is

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in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of [^{F5}the water environment], being caused.

(5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the appropriate person compensation of such amount as may be determined in such manner as may be prescribed.

(6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A above in relation to compensation under that section.

[^{F6}(7) In this section, “relevant land or water environment” means—

- (a) the contaminated land in question;
- (b) the water environment affected by that land; or
- (c) any land adjoining or adjacent to that land or water environment.]]

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

- F2** Pt. IIA (ss. 78A-78YC) inserted (in force at 21.9.1995 for certain purposes only, at 1.4.2000 for E. in so far as not already in force, at 14.7.2000 for S. for certain purposes and otherwise 14.7.2000) by 1995 c. 25, s. 57 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3; S.I. 2000/340, art. 2(a); S.S.I. 2000/180, art. 2(1)(a)(2); S.I. 2000/1986, art. 2
- F3** Words in s. 78G(2) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005 \(S.S.I. 2005/658\)](#), regs. 1, [2\(6\)\(a\)](#)
- F4** Words in s. 78G(3)(a) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005 \(S.S.I. 2005/658\)](#), regs. 1, [2\(6\)\(b\)](#)
- F5** Words in s. 78G(4) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005 \(S.S.I. 2005/658\)](#), regs. 1, [2\(2\)](#)
- F6** S. 78G(7) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005 \(S.S.I. 2005/658\)](#), regs. 1, [2\(6\)\(c\)](#)

Status:

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