



Environment Act 1995

1995 CHAPTER 25

PART V

MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

[^{F1}Powers of Entry][^{F1}Enforcement]

[^{F1}108A Procedure where documents removed

- (1) An authorised person (within the meaning of subsection (15) of section 108 of this Act) who removes any documents under the power in subsection (4)(ka) of that section shall, if requested to do so by a person mentioned in subsection (2) below, provide that person with a record of what the authorised person removed.
- (2) The persons are—
 - (a) a person who was the occupier of any premises from which the documents were removed at the time of their removal;
 - (b) a person who had possession or control of the documents immediately before they were removed.
- (3) The authorised person shall provide the record within a reasonable time of the request for it.
- (4) A person who had possession or control of documents immediately before they were removed may apply to SEPA—
 - (a) for access to the documents; or
 - (b) for a copy of them.
- (5) SEPA shall—
 - (a) allow the applicant supervised access to the documents for the purpose of copying them or information contained in them; or
 - (b) copy the documents or information contained in them (or cause the documents or information to be copied) and provide the applicant with such copies within a reasonable time of the application.

Status: Point in time view as at 28/02/2023. This version of this provision has been superseded.

Changes to legislation: Environment Act 1995, Section 108A is up to date with all changes known to be in force on or before 03 June 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) But SEPA need not comply with subsection (5) above where it has reasonable grounds for believing that to do so might prejudice—
- (a) any investigation for a purpose mentioned in paragraph (a), (d) or (e) of subsection (1) of section 108 of this Act; or
 - (b) any criminal proceedings which may be brought as a result of any such investigation.
- (7) In subsection (5) above, “supervised access” means access under the supervision of a person approved by SEPA.
- (8) A person who claims that an authorised person or SEPA has failed to comply with the requirements of subsection (1), (3) or (5) above may apply to the sheriff for an order under subsection (10) below.
- (9) An application under subsection (8) above—
- (a) relating to a failure to comply with the requirements of subsection (1) or (3) above may be made only by a person who is entitled to make a request under subsection (1) above;
 - (b) relating to a failure to comply with subsection (5) above may be made only by a person who had possession or control of the documents immediately before they were removed.
- (10) The sheriff may, if satisfied that the authorised person or SEPA has failed to comply with the requirements of subsection (1), (3) or (5) above, order the person, or as the case may SEPA, to comply with the requirements within such time and in such manner as may be specified in the order.]

Textual Amendments

- F1** S. 108A inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 46(3)**, 61(2); [S.S.I. 2014/160](#), art. 2(1)(2)

Modifications etc. (not altering text)

- C1** S. 108A applied (with modifications) (1.4.2018) by [The Control of Mercury \(Enforcement\) Regulations 2017 \(S.I. 2017/1200\)](#), regs. 2(2), **27(3)** (with reg. 1(2))
- C2** S. 108A applied (with modifications) (S.) (28.2.2023) by [The Packaging Waste \(Data Reporting\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/7\)](#), regs. 1, **26(4)**
- C3** S. 108A applied (with modifications) (E.) (28.2.2023) by [The Packaging Waste \(Data Reporting\) \(England\) Regulations 2023 \(S.I. 2023/219\)](#), regs. 1, **26(4)**

Status:

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Changes to legislation:

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