



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 4

MARINE LICENSING

CHAPTER 3

ENFORCEMENT

Enforcement notices

90 Compliance notice

- (1) If it appears to an enforcement authority that subsections (3) and (4) are satisfied in relation to a person carrying on an activity in its area, it may issue a compliance notice to that person.
- (2) A compliance notice is a notice requiring a person to take such steps (falling within subsection (5)(b)) as are specified in it.
- (3) This subsection is satisfied if a person holding a marine licence—
 - (a) has carried on, or is carrying on, a licensable marine activity under that licence, and
 - (b) in carrying on that activity has failed, or is failing, to comply with a condition of the licence.
- (4) This subsection is satisfied if the carrying on of the activity has not caused, and is not likely to cause, any of the following—
 - (a) serious harm to the environment;
 - (b) serious harm to human health;
 - (c) serious interference with legitimate uses of the sea.
- (5) A compliance notice must—

- (a) state the enforcement authority's grounds for believing that subsections (3) and (4) are satisfied;
- (b) require the person to take such steps as the authority considers appropriate to ensure that the condition in question is complied with;
- (c) state the period before the end of which those steps must be taken.

91 Remediation notice

- (1) If it appears to an enforcement authority that each of subsections (3) to (5) is satisfied in relation to a person carrying on an activity in its area, it may issue a remediation notice to that person.
- (2) A remediation notice is a notice requiring a person to do either or both of the following—
 - (a) to take such steps (falling within subsection (7)(b)) as are specified in it;
 - (b) to pay to the enforcement authority such sums (falling within subsection (7)(c)) as are specified in it.
- (3) This subsection is satisfied if a person has carried on, or is carrying on, a licensable marine activity.
- (4) This subsection is satisfied if the carrying on of the activity has involved, or involves, the commission of an offence under section 85(1).
- (5) This subsection is satisfied if the carrying on of the activity has caused, or is causing or is likely to cause, any of the following—
 - (a) harm to the environment;
 - (b) harm to human health;
 - (c) interference with legitimate uses of the sea.
- (6) Before issuing a remediation notice, the enforcement authority must consult the person to whom it is proposed to be issued as to the steps or, as the case may be, the sum to be specified in the notice.
- (7) A remediation notice—
 - (a) must state the enforcement authority's grounds for believing that each of subsections (3) to (5) is satisfied;
 - (b) may require the person to take such remedial or compensatory steps as the authority considers appropriate;
 - (c) may require the person to pay a sum representing the reasonable expenses of any remedial or compensatory steps taken, or to be taken, by the enforcement authority or the appropriate licensing authority (whether or not under section 106);
 - (d) must state the period before the end of which those steps must be taken or, as the case may be, that sum must be paid.
- (8) In subsection (7)(b) and (c) “remedial or compensatory steps” means steps taken (or to be taken) for any one or more of the purposes mentioned in subsection (9) (whether or not the steps are to be taken at or near the place where the harm or interference mentioned in subsection (5) has been, is being, or is likely to be, caused or the activity in respect of which the notice is issued is or has been carried on).
- (9) The purposes are—

- (a) protecting the environment;
- (b) protecting human health;
- (c) preventing interference with legitimate uses of the sea;
- (d) preventing or minimising, or remedying or mitigating the effects of, the harm or interference mentioned in subsection (5);
- (e) restoring (whether in whole or in part) the condition of any place affected by that harm or interference to the condition, or a condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred;
- (f) such purposes not falling within the preceding paragraphs as the enforcement authority considers appropriate in all the circumstances of the case.

92 Further provision as to enforcement notices

- (1) A compliance notice or remediation notice—
 - (a) must be served on any person carrying on, or in control of, the activity to which the notice relates, and
 - (b) if a marine licence has been granted in relation to that activity, may also be served on the licensee.
- (2) An enforcement authority may by a further notice—
 - (a) revoke a compliance notice or remediation notice;
 - (b) vary a compliance notice or remediation notice so as to extend the period specified in accordance with section 90(5)(c) or, as the case may be, section 91(7)(d).
- (3) A person who fails to comply with—
 - (a) a compliance notice, or
 - (b) a remediation notice,commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
 - (a) on summary conviction, to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (5) A sum specified in a remediation notice by virtue of section 91(7)(c) is recoverable as a civil debt.