



Marine (Scotland) Act 2010

2010 asp 5

PART 4

MARINE LICENSING

Enforcement notices

44 Remediation notice

- (1) If it appears to the Scottish Ministers that subsection (3) is satisfied in relation to a person carrying on an activity, they may issue a remediation notice to the 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 (5)(b)) as are specified in it,
 - (b) to pay to the Scottish Ministers any sum (falling within subsection (5)(c)) as is specified in it.
- (3) This subsection is satisfied if—
 - (a) a person has carried on, or is carrying on, a licensable marine activity,
 - (b) the carrying on of the activity has involved, or involves, the commission of an offence under section 39(1), and
 - (c) the carrying on of the activity has caused, or is causing or is likely to cause, any of the following—
 - (i) harm to the environment,
 - (ii) harm to human health,
 - (iii) interference with legitimate uses of the sea.
- (4) Before issuing a remediation notice, the Scottish Ministers 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.
- (5) A remediation notice—
 - (a) must state the Scottish Ministers' grounds for believing that subsection (3) is satisfied,

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010, Section 44. (See end of Document for details)

- (b) may require the person to take such remedial or compensatory steps as the Scottish Ministers consider 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 Scottish Ministers whether under section 59 (power to take remedial action) or otherwise,
 - (d) must state the period before the end of which the steps must be taken or (as the case may be) that sum must be paid.
- (6) In subsection (5)(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 (7) (whether or not the steps are taken at or near the place where the harm or interference mentioned in subsection (3)(c) 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).
- (7) 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 (3)(c),
 - (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 Scottish Ministers consider appropriate in all the circumstances of the case.

Modifications etc. (not altering text)

C1 Ss. 43-45 applied (9.11.2020) by [The Marine Licensing \(Exempted Activities\) \(Scottish Inshore Region\) Amendment Order 2020 \(S.S.I. 2020/316\)](#), arts. 1, **13**

Commencement Information

I1 S. 44 in force at 6.4.2011 by [S.S.I. 2011/58](#), art. **3(a)**

Changes to legislation:

There are currently no known outstanding effects for the Marine (Scotland) Act 2010, Section 44.