



Environmental Protection Act 1990

1990 CHAPTER 43

PART I

INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

Enforcement

13 Enforcement notices.

- (1) If the enforcing authority is of the opinion that the person carrying on a prescribed process under an authorisation is contravening any condition of the authorisation, or is likely to contravene any such condition, the authority may serve on him a notice (“an enforcement notice”).
- (2) An enforcement notice shall—
 - (a) state that the authority is of the said opinion;
 - (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
 - (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
 - (d) specify the period within which those steps must be taken.
- (3) The Secretary of State may, if he thinks fit in relation to the carrying on by any person of a prescribed process, give to the enforcing authority directions as to whether the authority should exercise its powers under this section and as to the steps which are to be required to be taken under this section.
- [^{F1}(4) The enforcing authority may, as respects any enforcement notice it has issued to any person, by notice in writing served on that person, withdraw the notice.]

Status: Point in time view as at 01/04/1996.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Enforcement is up to date with all changes known to be in force on or before 23 April 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)

Textual Amendments

F1 S. 13(4) added (12.10.1995) by virtue of 1995 c. 25, s. 120(1), **Sch. 22 para.53** (with ss. 7(6), 115); S.I. 1995/2649, **art.2**

14 Prohibition notices.

- (1) If the enforcing authority is of the opinion, as respects the carrying on of a prescribed process under an authorisation, that the continuing to carry it on, or the continuing to carry it on in a particular manner, involves an imminent risk of serious pollution of the environment the authority shall serve a notice (a “prohibition notice”) on the person carrying on the process.
- (2) A prohibition notice may be served whether or not the manner of carrying on the process in question contravenes a condition of the authorisation and may relate to any aspects of the process, whether regulated by the conditions of the authorisation or not.
- (3) A prohibition notice shall—
 - (a) state the authority’s opinion;
 - (b) specify the risk involved in the process;
 - (c) specify the steps that must be taken to remove it and the period within which they must be taken; and
 - (d) direct that the authorisation shall, until the notice is withdrawn, wholly or to the extent specified in the notice cease to have effect to authorise the carrying on of the process;

and where the direction applies to part only of the process it may impose conditions to be observed in carrying on the part which is authorised to be carried on.
- (4) The Secretary of State may, if he thinks fit in relation to the carrying on by any person of a prescribed process, give to the enforcing authority directions as to—
 - (a) whether the authority should perform its duties under this section; and
 - (b) the matters to be specified in any prohibition notice in pursuance of subsection (3) above which the authority is directed to issue.
- (5) The enforcing authority shall, as respects any prohibition notice it has issued to any person, by notice in writing served on that person, withdraw the notice when it is satisfied that the steps required by the notice have been taken.

15 Appeals as respects authorisations and against variation, enforcement and prohibition notices.

- (1) The following persons, namely—
 - (a) a person who has been refused the grant of an authorisation under section 6 above;
 - (b) a person who is aggrieved by the conditions attached, under any provision of this Part, to his authorisation;
 - (c) a person who has been refused a variation of an authorisation on an application under section 11 above;
 - (d) a person whose authorisation has been revoked under section 12 above;

Status: Point in time view as at 01/04/1996.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Enforcement is up to date with all changes known to be in force on or before 23 April 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)

- may appeal against the decision of the enforcing authority to the Secretary of State (except where the decision implements a direction of his).
- (2) A person on whom a variation notice, an enforcement notice or a prohibition notice is served may appeal against the notice to the Secretary of State [^{F2}(except where the notice implements a direction of his)].
- [^{F3}(3) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).]
- (4) An appeal under this section shall, if and to the extent required by regulations under subsection (10) below, be advertised in such manner as may be prescribed by regulations under that subsection.
- [^{F4}(5) Before determining an appeal under this section, the Secretary of State may, if he thinks fit—
- (a) cause the appeal to take or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private); or
 - (b) cause a local inquiry to be held;
- and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by either party to the appeal to be heard with respect to the appeal.]
- (6) On determining an appeal against a decision of an enforcing authority under subsection (1) above, the Secretary of State—
- (a) may affirm the decision;
 - (b) where the decision was a refusal to grant an authorisation or a variation of an authorisation, may direct the enforcing authority to grant the authorisation or to vary the authorisation, as the case may be;
 - (c) where the decision was as to the conditions attached to an authorisation, may quash all or any of the conditions of the authorisation;
 - (d) where the decision was to revoke an authorisation, may quash the decision;
- and where he exercises any of the powers in paragraphs (b), (c) or (d) above, he may give directions as to the conditions to be attached to the authorisation.
- (7) On the determination of an appeal under subsection (2) above the Secretary of State may either quash or affirm the notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.
- (8) Where an appeal is brought under subsection (1) above against the revocation of an authorisation, the revocation shall not take effect pending the final determination or the withdrawal of the appeal.
- (9) Where an appeal is brought under subsection (2) above against a notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice.
- (10) Provision may be made by the Secretary of State by regulations with respect to appeals under this section and in particular—
- (a) as to the period within which and the manner in which appeals are to be brought; and
 - (b) as to the manner in which appeals are to be considered.[^{F5}and any such regulations may make different provision for different cases or different circumstances.]

Status: Point in time view as at 01/04/1996.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Enforcement is up to date with all changes known to be in force on or before 23 April 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)

Textual Amendments

- F2** Words in s. 15(2) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 54(2)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F3** S. 15(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 54(3)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F4** S. 15(5) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 54(4)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F5** Words in s. 15(10) added (1.4.1996) by virtue of 1995 c. 25, s. 120(1), **Sch. 22 para. 54(5)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**

Modifications etc. (not altering text)

- C1** S. 15: Power to delegate functions conferred (1.4.1996) by 1995 c. 25, s. 114(2)(a)(iii)(with ss. 7(6), 115); S.I. 1996/186, **art.3**
S. 15 applied (12.4.1999) by S.I. 1999/743, reg. 21(4), **Sch. 8 para. 14**

F6 16

Textual Amendments

- F6** S. 16 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 55, **Sch.24** (with ss. 7(2), 115); S.I. 1996/186, **art.3**

F7 17

Textual Amendments

- F7** S. 17 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 55, **Sch.24** (with ss. 7(6), 115); S.I. 1996/186, **art.3**

F8 18

Textual Amendments

- F8** S. 18 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 55, **Sch.24**(with ss. 7(6), 115); S.I. 1996/186, **art.3**

19 Obtaining of information from persons and authorities.

- (1) For the purposes of the discharge of his functions under this Part, the Secretary of State may, by notice in writing served on an enforcing authority, require the authority to furnish such information about the discharge of its functions as an enforcing authority under this Part as he may require.
- (2) For the purposes of the discharge of their respective functions under this Part, the following authorities, that is to say—

Status: Point in time view as at 01/04/1996.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Enforcement is up to date with all changes known to be in force on or before 23 April 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)

- (a) the Secretary of State,
- (b) a local enforcing authority,
- [^{F9}(c) the Environment Agency, and
- (d) SEPA,]

may, by notice in writing served on any person, require that person to furnish to the authority such information which the authority reasonably considers that it needs as is specified in the notice, in such form and within such period following service of the notice [^{F10}, or at such time,] as is so specified.

- (3) For the purposes of this section the discharge by the Secretary of State of an obligation of the United Kingdom under the Community Treaties or any international agreement relating to environmental protection shall be treated as a function of his under this Part.

Textual Amendments

- F9** S. 19(2)(c)(d) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 56(a)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**
- F10** Words in s. 19(2) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 56(b)** (with ss. 7(6), 115); S.I. 1996/186, **art.3**

Status:

Point in time view as at 01/04/1996.

Changes to legislation:

Environmental Protection Act 1990, Cross Heading: Enforcement is up to date with all changes known to be in force on or before 23 April 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.