



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Waste Management Licences

^{F1}[35A Compensation where rights granted pursuant to section 35(4) or 38(9A).

^{F2}(1) This section applies in any case where—

- (a) the holder of a licence is required—
 - (i) by the conditions of the licence; or
 - (ii) by a requirement imposed under section 38(9) below, to carry out any works or do any other thing which he is not entitled to carry out or do;
 - (b) a person whose consent would be required has, pursuant to the requirements of section 35(4) above or 38(9A) below, granted, or joined in granting, to the holder of the licence any rights in relation to any land; and
 - (c) those rights, or those rights together with other rights, are such as will enable the holder of the licence to comply with any requirements imposed on him by the licence or, as the case may be, under section 38(9) below.
- (2) In a case where this section applies, any person who has granted, or joined in granting, the rights in question shall be entitled to be paid compensation under this section by the holder of the licence.
- (3) The Secretary of State shall by regulations provide for the descriptions of loss and damage for which compensation is payable under this section.
- (4) The Secretary of State may by regulations—
 - (a) provide for the basis on which any amount to be paid by way of compensation under this section is to be assessed;

Changes to legislation: Environmental Protection Act 1990, Section 35A is up to date with all changes known to be in force on or before 15 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) View outstanding changes

- (b) without prejudice to the generality of subsection (3) and paragraph (a) above, provide for compensation under this section to be payable in respect of—
 - (i) any effect of any rights being granted, or
 - (ii) any consequence of the exercise of any rights which have been granted;
- (c) provide for the times at which any entitlement to compensation under this section is to arise or at which any such compensation is to become payable;
- (d) provide for the persons or bodies by whom, and the manner in which, any dispute—
 - (i) as to whether any, and (if so) how much and when, compensation under this section is payable; or
 - (ii) as to the person to or by whom it shall be paid, is to be determined;
- (e) provide for when or how applications may be made for compensation under this section;
- (f) without prejudice to the generality of paragraph (d) above, provide for when or how applications may be made for the determination of any such disputes as are mentioned in that paragraph;
- (g) without prejudice to the generality of paragraphs (e) and (f) above, prescribe the form in which any such applications as are mentioned in those paragraphs are to be made;
- (h) make provision similar to any provision made by paragraph 8 of Schedule 19 to the ^{M1}Water Resources Act 1991;
- (j) make different provision for different cases, including different provision in relation to different persons or circumstances;
- (k) include such incidental, supplemental, consequential or transitional provision as the Secretary of State considers appropriate.]]

Textual Amendments

- F1** S. 35A inserted (1.2.1996 for limited purposes, 1.4.1998 in so far as it imposes a duty, or confers power, to make regulations and 1.4.1999 so far as not already in force) by 1995 c. 25, s. 120(1), **Sch. 22 para.67** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**; S.I. 1998/604, **art.2**; S.I. 1999/803, **art. 3**
- F2** S. 35A repealed (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), regs. 73, 74(2), Sch. 21 para. 10, **Sch. 23** (with reg. 72, Sch. 4)
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Modifications etc. (not altering text)

- C1** S. 35A(4) applied by 1991 c. 57, **s. 161B(6)** (as inserted (21.9.1995 for limited purposes, 16.3.1999 for limited purposes and 29.4.1999 so far as not already in force) by 1995 c. 25, s. 120(1), **Sch. 22 para.162** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art.3**; S.I. 1999/803, **art. 2**; S.I. 1999/1301, **art. 2**
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Marginal Citations

- M1** 1991 c. 28.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)