



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Waste Management Licences

^{F1}**36A Consultation before the grant of certain licences.**

- ^{F2}(1) This section applies where an application for a licence has been duly made to a waste regulation authority, and the authority proposes to issue a licence subject (by virtue of section 35(4) above) to any condition which might require the holder of the licence to—
- (a) carry out any works, or
 - (b) do any other thing,
- which he might not be entitled to carry out or do.
- (2) Before issuing the licence, the waste regulation authority shall serve on every person appearing to the authority to be a person falling within subsection (3) below a notice which complies with the requirements set out in subsection (4) below.
- (3) A person falls within this subsection if—
- (a) he is the owner, lessee or occupier of any land; and
 - (b) that land is land in relation to which it is likely that, as a consequence of the licence being issued subject to the condition in question, rights will have to be granted by virtue of section 35(4) above to the holder of the licence.
- (4) A notice served under subsection (2) above shall—
- (a) set out the condition in question;
 - (b) indicate the nature of the works or other things which that condition might require the holder of the licence to carry out or do; and

Changes to legislation: Environmental Protection Act 1990, Section 36A is up to date with all changes known to be in force on or before 19 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

- (c) specify the date by which, and the manner in which, any representations relating to the condition or its possible effects are to be made to the waste regulation authority by the person on whom the notice is served.
- (5) The date which, pursuant to subsection (4)(c) above, is specified in a notice shall be a date not earlier than the date on which expires the period—
- (a) beginning with the date on which the notice is served, and
 - (b) of such length as may be prescribed in regulations made by the Secretary of State.
- (6) Before the waste regulation authority issues the licence it must, subject to subsection (7) below, consider any representations made in relation to the condition in question, or its possible effects, by any person on whom a notice has been served under subsection (2) above.
- (7) Subsection (6) above does not require the waste regulation authority to consider any representations made by a person after the date specified in the notice served on him under subsection (2) above as the date by which his representations in relation to the condition or its possible effects are to be made.
- (8) In subsection (3) above—
- “owner”, in relation to any land in England and Wales, means the person who—
- (a) is for the time being receiving the rack-rent of the land, whether on his own account or as agent or trustee for another person; or
 - (b) would receive the rack-rent if the land were let at a rack-rent,
- but does not include a mortgagee not in possession; and
- “owner”, in relation to any land in Scotland, means a person (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive or who would, if the land were let, be entitled to receive, the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted.]]

Textual Amendments

- F1** S. 36A inserted (1.4.1998 so far as it 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.69** (with ss. 7(6), 115, 117); S.I. 1998/604, **art.2**; S.I. 1999/803, **art. 3**
- F2** S. 36A 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)

Changes to legislation:

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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\(4\)](#)