

MARINE (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 4 – Marine Licensing

Enforcement notices

Section 44 - Remediation notice

62. *Section 44* indicates that a person who has carried on or is carrying on a licensable activity, either without a licence or in a manner that breaches the conditions of their licence, can be issued with a notice requiring them to put right any damage caused by their activity, pay for another body to put right that damage, or to undertake steps elsewhere in compensation for the damage caused. Such a notice is called a “remediation notice”.
63. The Scottish Ministers can issue a remediation notice in cases where harm to the environment or human health has occurred, or is likely to occur, or where the activity has interfered with other legitimate uses of the sea, or is likely to do so.
64. The Scottish Ministers may only issue a remediation notice after they have consulted the person to whom they intend to issue the notice.
65. The remediation notice may require the person to take steps to protect the environment, prevent, minimise or mitigate the effects of harm or interference caused, or restore a site to an appropriate condition had the harm or interference not been caused. In addition, the remediation notice may require steps to be taken at a site other than the one affected by the harm or interference. It may not be reasonably possible to restore a site so steps to be taken at another site may be deemed more appropriate. A remediation notice could be served in addition to a stop notice (see below). This would be the case, for example, where the Scottish Ministers sought to put an immediate halt to a damaging activity and then to require the operator to put right the damage already caused.
66. A remediation notice must state the Scottish Ministers’ reasons for issuing the notice; any remedial steps or payment to be made as a consequence of the offence or to protect the environment, human health or prevent interference; and the time period within which any steps required should be completed or sum paid. The requirements contained in a remediation notice must be reasonable.