



Environmental Protection Act 1990

1990 CHAPTER 43

[^{F1}PART IIA

CONTAMINATED LAND

^{F2}[^{F1}78E Duty of enforcing authority to require remediation of contaminated land etc. ^E ^{+W}

- (1) In any case where—
- (a) any land has been designated as a special site by virtue of section 78C(7) or 78D(6) above, or
 - (b) a local authority has identified any contaminated land (other than a special site) in its area,
- the enforcing authority shall, in accordance with such procedure as may be prescribed and subject to the following provisions of this Part, serve on each person who is an appropriate person a notice (in this Part referred to as a “remediation notice”) specifying what that person is to do by way of remediation and the periods within which he is required to do each of the things so specified.
- (2) Different remediation notices requiring the doing of different things by way of remediation may be served on different persons in consequence of the presence of different substances in, on or under any land or waters.
- (3) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, the remediation notice served on each of them shall state the proportion, determined under section 78F(7) below, of the cost of doing that thing which each of them respectively is liable to bear.
- (4) The only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of this Part are things which it considers reasonable, having regard to—
- (a) the cost which is likely to be involved; and
 - (b) the seriousness of the harm, or [^{F3}of the] pollution of controlled waters, in question.

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

Changes to legislation: Environmental Protection Act 1990, Section 78E is up to date with all changes known to be in force on or before 15 September 2023. 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

(5) In determining for any purpose of this Part—

- (a) what is to be done (whether by an appropriate person, the enforcing authority or any other person) by way of remediation in any particular case,
- (b) the standard to which any land is, or waters are, to be remediated pursuant to the notice, or
- (c) what is, or is not, to be regarded as reasonable for the purposes of subsection (4) above,

the enforcing authority shall have regard to any guidance issued for the purpose by the Secretary of State.

(6) Regulations may make provision for or in connection with—

- (a) the form or content of remediation notices; or
- (b) any steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a remediation notice.]

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F1** Pt. 2A (ss. 78A-78YC) inserted (in force at 21.9.1995 for certain purposes only, at 1.4.2000 for E. in so far as not already in force, at 14.7.2000 for S. for certain purposes and otherwise 14.7.2000) by 1995 c. 25, s. 57, (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3; S.I. 2000/340, art. 2(a); S.S.I. 2000/180, art. 2(1)(a)(2); S.I. 2000/1986, art. 2
- F2** Pt. IIA (ss. 78A-78YC) inserted (in force at 21.9.1995 for certain purposes only, at 1.4.2000 for E. in so far as not already in force, at 14.7.2000 for S. for certain purposes and otherwise 14.7.2000) by 1995 c. 25, s. 57 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3; S.I. 2000/340, art. 2(a); S.S.I. 2000/180, art. 2(1)(a)(2); S.I. 2000/1986, art. 2
- F3** Words in s. 78E(4)(b) inserted (E.W.) (6.4.2012) by Water Act 2003 (c. 37), ss. 86(4), 105(3); S.I. 2012/264, art. 2; S.I. 2012/284, art. 2

^{F2}[^{F1}78E Duty of enforcing authority to require remediation of contaminated land etc. **S**

(1) In any case where—

- (a) any land has been designated as a special site by virtue of section 78C(7) or 78D(6) above, or
- (b) a local authority has identified any contaminated land (other than a special site) in its area,

the enforcing authority shall, in accordance with such procedure as may be prescribed and subject to the following provisions of this Part, serve on each person who is an appropriate person a notice (in this Part referred to as a “remediation notice”) specifying what that person is to do by way of remediation and the periods within which he is required to do each of the things so specified.

(2) Different remediation notices requiring the doing of different things by way of remediation may be served on different persons in consequence of the presence of different substances in, on or under any land or [^{F4}the water environment].

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent

Changes to legislation: Environmental Protection Act 1990, Section 78E is up to date with all changes known to be in force on or before 15 September 2023. 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

- (3) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, the remediation notice served on each of them shall state the proportion, determined under section 78F(7) below, of the cost of doing that thing which each of them respectively is liable to bear.
- (4) The only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of this Part are things which it considers reasonable, having regard to—
- (a) the cost which is likely to be involved; and
 - (b) the seriousness of the harm, or [^{F5}of the] pollution of [^{F6}the water environment], in question.
- (5) In determining for any purpose of this Part—
- (a) what is to be done (whether by an appropriate person, the enforcing authority or any other person) by way of remediation in any particular case,
 - (b) the standard to which any land is, or waters are [^{F7}, or the water environment is], to be remediated pursuant to the notice, or
 - (c) what is, or is not, to be regarded as reasonable for the purposes of subsection (4) above,
- the enforcing authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (6) Regulations may make provision for or in connection with—
- (a) the form or content of remediation notices; or
 - (b) any steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a remediation notice.]

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

- F2** Pt. IIA (ss. 78A-78YC) inserted (in force at 21.9.1995 for certain purposes only, at 1.4.2000 for E. in so far as not already in force, at 14.7.2000 for S. for certain purposes and otherwise 14.7.2000) by 1995 c. 25, s. 57 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3; S.I. 2000/340, art. 2(a); S.S.I. 2000/180, art. 2(1)(a)(2); S.I. 2000/1986, art. 2
- F4** Words in s. 78E(2) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005](#) (S.S.I. 2005/658), regs. 1, 2(5)(a)
- F5** Words in s. 78E(4)(b) inserted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005](#) (S.S.I. 2005/658), regs. 1, 2(5)(b)
- F6** Words in s. 78E(4)(b) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005](#) (S.S.I. 2005/658), regs. 1, 2(2)
- F7** Words in s. 78E(5)(b) substituted (S.) (1.4.2006) by [The Contaminated Land \(Scotland\) Regulations 2005](#) (S.S.I. 2005/658), regs. 1, 2(5)(c)

Status:

There are multiple versions of this provision on screen. These apply to different geographical extents.

Skip to:

- E+W - England and Wales extent
- S - Scotland extent

Changes to legislation:

Environmental Protection Act 1990, Section 78E is up to date with all changes known to be in force on or before 15 September 2023. 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.

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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. 34D and cross-heading inserted by [2016 anaw 3 s. 66\(1\)](#)
- 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. 45AA45AB inserted by [2016 anaw 3 s. 65](#)
- 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\(4\)](#)