



Environment Act 1995

1995 CHAPTER 25

PART V

MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

[^{F1}Powers of Entry][^{F1}Enforcement]

[^{F1}109A. Power to issue restriction notices: England and Wales

- (1) An authorised person may issue a restriction notice in relation to premises where there is, or was, a regulated facility or an exempt facility if the person is satisfied that the conditions in subsection (2) are met.
- (2) The conditions are that—
 - (a) there is a risk of serious pollution to the environment or serious harm to human health which is a result of the treatment, keeping, deposit or disposal of waste in or on the premises, and
 - (b) the notice is necessary to prevent that risk from continuing.
- (3) A restriction notice is a notice prohibiting access to, and the importation of waste into, the premises or a specified part of the premises.
- (4) But a restriction notice does not prohibit access to the premises, or the specified part of the premises, by the occupier or the owner.
- (5) A restriction notice has effect for a period specified in the notice, which may not exceed 72 hours.
- (6) Where a restriction notice is issued, the appropriate agency may do anything necessary to secure the premises against access in contravention of the notice.
- (7) A restriction notice may include provision for—
 - (a) persons, or a description of persons, to whom the prohibition in subsection (3) does not apply;
 - (b) times at which the prohibition in subsection (3) does not apply;

Changes to legislation: Environment Act 1995, Section 109A is up to date with all changes known to be in force on or before 05 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) circumstances in which the prohibition in subsection (3) does not apply.
- (8) Provision included in accordance with subsection (7) may be unconditional or subject to specified conditions.
- (9) A restriction notice must—
- (a) identify the premises, or part of the premises, to which the notice applies;
 - (b) explain the effect of the notice;
 - (c) state that failure to comply with the notice is an offence;
 - (d) state the penalties applicable to a person guilty of an offence;
 - (e) state that a restriction order will be applied for under section 109D;
 - (f) state that notice will be given of when and where the application for a restriction order will be heard;
 - (g) explain the effect of a restriction order.
- (10) Before issuing a restriction notice, the appropriate agency must make reasonable efforts—
- (a) to inform the occupier and the owner of the premises that the notice is going to be issued;
 - (b) to consult the occupier and the owner of the premises on the arrangements for access to the premises, or to the particular part of the premises, by persons acting on behalf of the occupier or the owner for any purpose, including—
 - (i) the purpose of maintaining machinery and apparatus;
 - (ii) the purpose of securing the premises.]

Textual Amendments

F1 Ss. 109A-109N inserted (E.W.) (29.3.2018) by [The Waste Enforcement \(England and Wales\) Regulations 2018 \(S.I. 2018/369\)](#), reg. 1(2), **Sch. 2 para. 3** (with reg. 4(1))

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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. 41(1)(s) inserted by [2021 c. 30 s. 57\(8\)](#)
- s. 80(8) inserted by [2024 asc 2 s. 12\(1\)](#)
- s. 80(9)(10) inserted by [2024 asc 2 s. 13](#)
- s. 81B inserted by [2024 asc 2 s. 14\(1\)](#)
- s. 82(1A) inserted by [2024 asc 2 s. 16\(3\)](#)
- s. 83B inserted by [2024 asc 2 s. 17\(1\)](#)
- s. 85(3)(e)(f) inserted by [2024 asc 2 s. 18\(b\)](#)
- s. 87(2)(o)(i) words in s. 87(2)(o) renumbered as s. 87(2)(o)(i) by [2024 asc 2 s. 24\(2\)\(a\)\(i\)](#)
- s. 87(2)(o)(ii) and word inserted by [2024 asc 2 s. 24\(2\)\(a\)\(ii\)](#)
- s. 87(2B) inserted by [2024 asc 2 s. 24\(2\)\(b\)](#)
- s. 87(7A)(7B) inserted by [2024 asc 2 s. 15](#)
- s. 87(9A) inserted by [2024 asc 2 s. 12\(2\)](#)
- s. 88(4)(5) inserted by [2024 asc 2 s. 14\(3\)\(b\)](#)
- Sch. 7 para. 7(4A)(4B) inserted by [2007 c. 28 Sch. 14 para. 4\(3\)](#)