

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 4: Marine Licensing

Chapter 3: Enforcement

Enforcement notices

Section 91: Remediation notice

279. A person who has carried on or is in the process of carrying on a licensable activity, either without a licence or with a licence but in a manner that breaches the conditions of the licence and who has caused, is causing or is likely to cause any of the results described in *subsection (5)*, may be issued with a remediation notice. This is a notice requiring the person to take “remedial or compensatory steps” (described in more detail below) or to pay a sum representing the cost of taking such steps.
280. The enforcement authority may issue a remediation notice in cases where harm to the environment or human health has occurred, is occurring, or is likely to occur, or where the activity has interfered is interfering or is likely to interfere with legitimate uses of the sea.
281. The enforcement authority may only issue a remediation notice after they have consulted the person to whom they intend to issue the notice.
282. The “remedial or compensatory steps” which a remediation notice may require a person to take are steps to protect the environment or human health, or to prevent interference with legitimate uses of the sea, or to prevent, minimise, remedy or mitigate the effects of the harm or interference in question, or to restore the condition of any place affected by the activity, or for any other purpose which the enforcement authority considers appropriate, or to pay a sum representing the cost of taking such steps. A remediation notice may require steps to be taken at a site other than the one affected by the harm or interference (see *subsection (9)(f)*). It may not be reasonably possible to restore the whole or part of a site to the condition it would have been in had the harm or interference not been caused, so steps to be taken at another site may be considered more appropriate. This could occur for instance where steps to be taken would be disproportionately expensive compared to the gain achieved or the best course of action may be to allow the site to recover naturally over time.
283. A remediation notice could be served in addition to a stop notice (see section 102). This would be the case, for example, where an enforcement authority puts an immediate halt to a damaging activity and then requires the operator to put right the damage already caused.
284. A remediation notice must state the enforcement authority’s reasons for issuing the notice; any remedial or compensatory steps to be taken, or any sum to be paid in respect of the cost of taking such steps; and the period within which any such steps are to be

*These notes refer to the Marine and Coastal Access Act 2009
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completed or any such sum is to be paid. The requirements contained in a remediation notice must be reasonable.