



## 2011 CHAPTER 5

### *Waste*

#### **Councils to enforce Articles 4 and 5 of 1997 Order**

**5.—**(1) In Article 72 of the 1997 Order (powers of enforcing authority), in paragraph (12)—

- (a) in the definition of “enforcing authority” after paragraph (a) insert—
  - “(aa) a district council in relation to Articles 4 and 5;”;
- (b) in the definition of “pollution control statutory provisions” in paragraph (b) after sub-paragraph (i) insert—
  - “(ia) Articles 4 and 5;”.

(2) In Article 5A of the 1997 Order (fixed penalty notices for certain offences under Article 5(8))—

- (a) in paragraph (1) for “the Department” (where it first occurs) substitute “an authorised officer of an enforcing authority” and for “to the Department” substitute “to the enforcing authority”;
- (b) in paragraph (2) for “Department” substitute “authorised officer” and at the end add “to the enforcing authority”;
- (c) in paragraph (9) for “the Department” substitute “an enforcing authority”;
- (d) in paragraph (11) for “The Department may” substitute “An enforcing authority may” and for “by the Department” substitute “by the enforcing authority”;
- (e) for paragraph (13) substitute—

“(12A) Article 22C (use of fixed penalty receipts by a district council) applies in relation to amounts received by a council under this Article as it applies in relation to amounts received under Article 22A.

(13) In this Article—

“authorised officer” means an officer of the enforcing authority who is authorised in writing by the enforcing authority for the purposes of this Article;

“enforcing authority” means—

- (a) the Department; and
- (b) in relation to an offence committed within its district, a district council.”.

(3) In Article 5B of the 1997 Order (investigation and enforcement costs) for paragraph (2) substitute—

“(2) The court by or before which the offender is convicted may make an order requiring him to pay—

- (a) to the Department or a district council a sum which appears to the court not to exceed the costs arising from investigations of the Department or the district council which resulted in the conviction; and
- (b) to the Department a sum which appears to the court not to exceed the costs arising from the seizure by the Department under Article 5E of a vehicle involved in the offence.”.

(4) In Article 5C of the 1997 Order (clean up costs) after paragraph (2) insert—

“(2A) The reference to costs in paragraph (2) does not include any costs which the Department or the council has already recovered under Article 28B(2).”.