
STATUTORY INSTRUMENTS

1997 No. 2778

**The Waste and Contaminated Land
(Northern Ireland) Order 1997**

PART II

WASTE ON LAND

Collection, disposal or treatment of controlled waste

Powers to require removal of waste unlawfully deposited

28.—(1) If any controlled waste is deposited in or on any land in the district of a district council in contravention of Article 4(1), the district council may, by notice served on him, require the occupier to do either or both of the following, that is—

- (a) to remove the waste from the land within a specified period not less than a period of 21 days from the service of the notice;
- (b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.

(2) A person on whom any requirements are imposed under paragraph (1) may, within the period of 21 days mentioned in that paragraph, appeal against the requirement to a court of summary jurisdiction.

(3) On any appeal under paragraph (2) the court shall quash the requirement if it is satisfied that—

- (a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or
- (b) there is a material defect in the notice;

and in any other case shall either modify the requirement or dismiss the appeal.

(4) Where a person appeals against any requirement imposed under paragraph (1), the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

(5) If a person on whom a requirement has been imposed under paragraph (1) fails, without reasonable excuse, to comply with the requirement he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) If in the case of a continuing offence under paragraph (5), the offender continues to fail to comply with the requirement he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-tenth of level 5 on the standard scale for each day on which the offence is continued and before the district council has begun to exercise its powers under paragraph (7).

(7) Where a person on whom a requirement has been imposed under paragraph (1) by a district council fails to comply with the requirement the council may do what that person was required to do and may recover from him any expenses reasonably incurred by the council in doing it.

(8) If it appears to a district council that waste has been deposited in or on any land in contravention of Article 4(1) and that—

- (a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or
- (b) there is no occupier of the land; or
- (c) the occupier neither made nor knowingly permitted the deposit of the waste;

the council may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.

(9) Where a district council exercises any of the powers conferred on it by paragraph (8) it may recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—

- (a) in a case falling within paragraph (8)(a), from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste,
- (b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;

except such of the cost as the occupier or that person shows was incurred unnecessarily.

(10) Any waste removed by a district council under paragraph (8) shall belong to the council and may be dealt with accordingly.