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STATUTORY INSTRUMENTS

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**1997 No. 2778**

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

**PART II**

**WASTE ON LAND**

*Other controls on substances, articles or waste*

**Power to prohibit or restrict the use, supply or storage of injurious substances or articles**

**32.**—(1) Regulations may prohibit or restrict—

- (a) the use for any purpose,
- (b) the supply for any purpose, and
- (c) the storage,

of any specified substance or article if the Department considers it appropriate to do so for the purpose of preventing the substance or article from causing pollution of the environment or harm to human health or to the health of animals or plants.

(2) Regulations under this Article may—

- (a) enable the Department to direct that any substance or article whose use, supply or storage is prohibited or restricted is to be treated as waste or controlled waste of any description and in relation to any such substance or article—
  - (i) to apply, with or without modification, prescribed provisions of this Part; or
  - (ii) to direct that it be disposed of or treated in accordance with the direction;
- (b) confer powers corresponding to those conferred by Article 44 on persons authorised for any purpose of the regulations by the Department or on any district council; and
- (c) include such other incidental and supplemental, and such transitional provisions, as the Department considers appropriate.

(3) Subject to paragraph (4), before it makes any regulations under this Article the Department shall—

- (a) publish in the Belfast Gazette and in any other publication which the Department considers appropriate, a notice indicating the effect of the proposed regulations and specifying—
  - (i) the date on which it is proposed that the regulations will come into operation;
  - (ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours; and
  - (iii) a period of not less than 14 days from the date on which the notice is first published during which representations in writing may be made to the Department about the proposed regulations; and

(b) consider any representations which are made in accordance with the notice.

(4) Regulations may be made under this Article in relation to any substance or article without observing the requirements of paragraph (3) where it appears to the Department that there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.

(5) After complying with paragraph (3) with respect to any proposed regulations, the regulations may be made either—

(a) in the form of the draft mentioned in paragraph (3)(a), or

(b) in that form with such modifications as the Department considers appropriate;

but regulations incorporating modifications shall not be made unless the Department is of the opinion that it is appropriate for the requirements of paragraph (3) to be disregarded.

(6) Regulations under this Article may provide that a person who contravenes a specified provision of the regulations or causes or permits another person to contravene a specified provision of the regulations commits an offence and may prescribe the maximum penalty for the offence.

(7) No offence under the regulations shall be made punishable with imprisonment for more than 2 years or punishable on summary conviction with a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.

(8) In this Article—

“the environment” includes the air within buildings and the air within other natural or man-made structures above or below ground; and

“substance” includes mixtures of substances.