
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART III

CONTAMINATED LAND

Interpretation of Part III

49.—(1) In this Part—

“appropriate person” means any person who is an appropriate person, determined in accordance with Article 54, to bear responsibility for any thing which is to be done by way of remediation in any particular case;

“charging notice” means a notice under Article 61(3);

“contaminated land” is any land which appears to a district council in whose district it is situated to be in such a condition, by reason of substances in, on or under the land, that—

- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
- (b) pollution of waterways or underground strata is being, or is likely to be, caused;

and, in determining whether any land appears to be such land, a district council shall, subject to paragraph (2), act in accordance with guidance issued by the Department in accordance with Article 69 with respect to the manner in which that determination is to be made;

“enforcing authority” means—

- (a) in relation to a special site, the Department;
- (b) in relation to contaminated land other than a special site, the district council in whose district the land is situated;

“pollution of waterways or underground strata” means the entry into waterways or underground strata of any poisonous, noxious or polluting matter or any solid waste matter;

“remediation” means—

- (a) the doing of anything for the purpose of assessing the condition of—
 - (i) the contaminated land in question;
 - (ii) any waterways or underground strata affected by that land; or
 - (iii) any land adjoining or adjacent to that land;
- (b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose—
 - (i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm, or any pollution of waterways or underground strata, by reason of which the contaminated land is such land; or

- (ii) of restoring the land, waterways or underground strata to their former state; or
- (c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land, waterways or underground strata;

“remediation declaration” means a document prepared and published under Article 56(6);

“remediation notice” means a notice under Article 53(1);

“remediation statement” means a document prepared and published under Article 56(7);

“required to be designated as a special site” shall be construed in accordance with Article 51(8);

“special site” means any contaminated land—

- (a) which has been designated as such a site under Article 51(7) or 52(4); and
- (b) whose designation as such has not been terminated by the Department under Article 62(4);

“waterways” has the same meaning as in section 30(1) of the Water Act (Northern Ireland) 1972;

“underground strata” has the same meaning as in section 30(1) of the Water Act (Northern Ireland) 1972.

(2) For the purposes of this Part, the questions—

- (a) what harm is to be regarded as “significant”,
- (b) whether the possibility of significant harm being caused is “significant”,
- (c) whether pollution of waterways or underground strata is being, or is likely to be caused,

shall be determined in accordance with guidance issued for the purpose by the Department in accordance with Article 69.

(3) Without prejudice to the guidance that may be issued under paragraph (2), guidance under sub-paragraph (a) of that paragraph may make provision for different degrees of importance to be assigned to, or for the disregard of,—

- (a) different descriptions of living organisms or ecological systems;
- (b) different descriptions of places; or
- (c) different descriptions of harm to health or property, or other interference;

and guidance under sub-paragraph (b) of that paragraph may make provision for different degrees of possibility to be regarded as “significant” (or as not being “significant”) in relation to different descriptions of significant harm.

(4) Waterways or underground strata are “affected by” contaminated land if (and only if) it appears to the enforcing authority that the contaminated land in question is, for the purposes of paragraph (1), in such a condition, by reason of substances in, on or under the land, that significant harm to, or pollution of, those waterways or underground strata is being, or is likely to be caused.