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STATUTORY INSTRUMENTS

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**1997 No. 2778**

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

**PART III**

**CONTAMINATED LAND**

**Liability in respect of contaminating substances which escape to other land**

**57.**—(1) A person who has caused or knowingly permitted any substances to be in, on or under any land shall also be taken for the purposes of this Part to have caused or, as the case may be, knowingly permitted those substances to be in, on or under any other land to which they appear to have escaped.

(2) Paragraphs (3) and (4) apply in any case where it appears that any substances are or have been in, on or under any land (in this Article referred to as “land A”) as a result of their escape, whether directly or indirectly, from other land in, on or under which a person caused or knowingly permitted them to be.

(3) Where this paragraph applies, no remediation notice shall require a person—

- (a) who is the owner or occupier of land A, and
- (b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation to any land or waters (other than land or waters of which he is the owner or occupier) in consequence of land A appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm is being caused, or there is a significant possibility of such harm being caused, or that pollution of waterways or underground strata is being, or is likely to be caused.

(4) Where this paragraph applies, no remediation notice shall require a person—

- (a) who is the owner or occupier of land A, and
- (b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation in consequence of any further land in, on or under which those substances or any of them appear to be or to have been present as a result of their escape from land A (“land B”) appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm is being caused, or there is a significant possibility of such harm being caused, or that pollution of waterways or underground strata is being, or is likely to be caused, unless he is also the owner or occupier of land B.

(5) In any case where—

- (a) a person (“person A”) has caused or knowingly permitted any substances to be in, on, or under any land,

- (b) another person (“person B”) who has not caused or knowingly permitted those substances to be in, on or under that land becomes the owner or occupier of that land, and
- (c) the substances, or any of the substances, mentioned in sub-paragraph (a) appear to have escaped to other land,

no remediation notice shall require person B to do anything by way of remediation to that other land in consequence of the apparent acts or omissions of person A, except to the extent that person B caused or knowingly permitted the escape.

(6) Nothing in paragraph (3), (4) or (5) prevents the enforcing authority from doing anything by way of remediation under Article 60 which it could have done apart from that paragraph, but the authority may not under Article 61 recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by paragraph (3), (4) or (5) from requiring that person to do.

(7) In this Article, “appear” means appear to the enforcing authority.