
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART III

CONTAMINATED LAND

Supplementary provisions

68.—(1) Where it appears to a district council that two or more different sites, when considered together, are 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,

this Part shall apply in relation to each of those sites, whether or not the condition of the land at any of them, when considered alone, appears to the council to be such 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.

(2) Where it appears to a district council that any land outside, but adjoining or adjacent to, its district is in such a condition, by reason of substances in, on or under the land, 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 within its district—

- (a) the council may, in exercising its functions under this Part, treat that land as if it were land situated within its district; and
- (b) except in this paragraph, any reference—
 - (i) to land within the district of a district council, or
 - (ii) to the district council in whose district any land is situated,shall be construed accordingly;

but this paragraph is without prejudice to the functions of the district council in whose district the land is in fact situated.

(3) A person acting in a relevant capacity—

- (a) shall not thereby be personally liable, under this Part, to bear the whole or any part of the cost of doing any thing by way of remediation, unless that thing is to any extent referable to substances whose presence in, on or under the contaminated land in question is a result of any act done or omission made by him which it was unreasonable for a person acting in that capacity to do or make; and
- (b) shall not thereby be guilty of an offence under or by virtue of Article 59 unless the requirement which has not been complied with is a requirement to do some particular thing for which he is personally liable to bear the whole or any part of the cost.

- (4) In paragraph (3), “person acting in a relevant capacity” means—
- (a) a person acting as an insolvency practitioner, within the meaning of Article 3 of the Insolvency (Northern Ireland) Order 1989 (including that Article as it applies in relation to an insolvent partnership by virtue of any order made under Article 365 of that Order);
 - (b) the official receiver acting in a capacity in which he would be regarded as acting as an insolvency practitioner within the meaning of Article 3 of the Insolvency (Northern Ireland) Order 1989 if paragraph (5) of that Article were disregarded;
 - (c) the official receiver acting as a receiver or manager;
 - (d) a person acting as a special manager under Article 151 or 341 of the Insolvency (Northern Ireland) Order 1989;
 - (e) a person acting as a receiver or receiver and manager—
 - (i) under any statutory provision; or
 - (ii) by virtue of his appointment as such by an order of a court or by any other instrument.