
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART II

WASTE ON LAND

Miscellaneous

Obtaining of information

44.—(1) For the purpose of the discharge of its functions under this Part the Department or a district council may, by notice in writing served on him, require any person to furnish such information specified in the notice as the Department or, as the case may be, the council reasonably considers it needs, in such form and within such period following service of the notice, or at such time, as is so specified.

(2) A person who fails, without reasonable excuse, to comply with a requirement to provide information imposed under paragraph (1) shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine or to both.

Provisions relating to legal proceedings and civil liability

45.—(1) Where a person appeals against a decision of a court of summary jurisdiction dismissing an appeal against any requirement imposed under this Part which was suspended pending determination of that appeal, the requirement shall again be suspended pending the determination of the appeal.

(2) Where an appeal against a decision of a district council lies to a court of summary jurisdiction under any provision of this Part, the council shall include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies and specifying the time within which it must be brought.

(3) Where on an appeal to any court against or arising out of a decision of a district council under this Part the court varies or reverses the decision the council shall act in accordance with the court's decision.

(4) Where any damage is caused by waste which has been deposited in or on land, any person who deposited it, or knowingly caused or knowingly permitted it to be deposited, in either case so as to commit an offence under Article 4(1) or 31(2), is liable for the damage except where the damage—

- (a) was due wholly to the fault of the person who suffered it; or
 - (b) was suffered by a person who voluntarily accepted the risk of the damage being caused;
- but without prejudice to any liability arising otherwise than under this paragraph.

(5) The matters which may be proved by way of defence under Article 4(7) may be proved also by way of defence to an action brought under paragraph (4).

(6) In paragraph (4)—

“damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition); and

“fault” has the same meaning as in the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.

(7) For the purposes of the following statutory provisions—

(a) the Fatal Accidents (Northern Ireland) Order 1977,

(b) the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948; and

(c) the Limitation (Northern Ireland) Order 1989,

any damage for which a person is liable under paragraph (4) shall be treated as due to his fault.

Supplementary provisions relating to pipes

46.—(1) Where a district council provides pipes under Article 20(6) or 25(3), the council shall prepare a map showing the location of the pipes and shall secure that a copy of the map is available at its principal offices for inspection by the public free of charge at all reasonable hours.

(2) Section 29 of the Public Health (Ireland) Act 1878 (under which the erection of buildings over a sewer may be prevented or controlled by the Department) shall have effect as if the reference to a sewer included any pipe provided as mentioned in paragraph (1).

(3) References to pipes in this Article include associated works.

Transitional provisions with respect to licences

47.—(1) This Article has effect for the purposes of the transition from the provisions of Part II of the Pollution Control and Local Government (Northern Ireland) Order 1978 (“the 1978 Order”) to the corresponding provisions of this Part and in this Article—

“existing disposal licence” means a disposal licence under Article 7 of the 1978 Order subsisting on the day appointed under Article 1(2) for the repeal of Articles 5 to 12 of the 1978 Order and “relevant appointed day for licences” shall be construed accordingly;

“existing disposal plan” means a plan under Article 4 of the 1978 Order subsisting on the day appointed under Article 1(2) for the repeal of that Article and “relevant appointed day for plans” shall be construed accordingly;

“existing resolution of a district council” means a resolution under Article 13 of the 1978 Order in force on the day appointed under Article 1(2) for the repeal of that Article and “relevant appointed day for resolutions” shall be construed accordingly.

(2) An existing disposal licence shall, on and after the relevant appointed day for licences, be treated as a site licence and shall continue in force for a period of 3 years from the relevant appointed day for licences; and accordingly it shall be variable and subject to revocation or suspension under this Part and may not be surrendered or transferred except under this Part.

(3) An existing resolution of a district council shall, on and after the relevant appointed day for resolutions, have effect as if it were a waste management licence subject to the conditions specified in the resolution pursuant to Article 13(3)(d) of the 1978 Order and shall continue in force for a period of 3 years from the relevant appointed day for resolutions; and accordingly it shall be variable and subject to revocation or suspension under this Part and may not be surrendered or transferred except under this Part.

(4) An existing disposal plan of a district council shall, on and after the relevant appointed day for plans, be treated as the plan of that council under Article 23 and shall continue in force for a period of 3 years from the relevant appointed day for plans; and accordingly that Article shall have effect as if references in it to “the plan” included the existing disposal plan of that council.

This Part and radioactive substances

48. Except as provided by regulations under this Article, nothing in this Part applies to radioactive waste within the meaning of the Radioactive Substances Act 1993; but regulations may—

- (a) provide for prescribed provisions of this Part to have effect with such modifications as the Department considers appropriate for the purposes of dealing with such radioactive waste;
- (b) make such modifications of the Radioactive Substances Act 1993 and any other statutory provision as the Department considers appropriate.