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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**

*Special waste and non-controlled waste*

**Special provision with respect to certain dangerous or intractable waste**

**30.**—(1) If the Department considers that controlled waste of any kind is or may be so dangerous or difficult to treat, keep or dispose of that special provision is required for dealing with it, regulations shall make provision for the treatment, keeping or disposal of waste of that kind (in this Article referred to as “special waste”).

(2) Without prejudice to the generality of paragraph (1), the regulations may include provision—

- (a) for the giving of directions by the Department with respect to matters connected with the treatment, keeping or disposal of special waste;
- (b) for securing that special waste is not, while awaiting treatment or disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;
- (c) in connection with requirements imposed on consignors or consignees of special waste, imposing, in the event of non-compliance, requirements on any person carrying the consignment to re-deliver it as directed;
- (d) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed body;
- (e) for the making and retention of records by the Department and by persons who import, export, carry, produce, keep, treat or dispose of special waste, either directly or as a broker, or deliver it to another person for keeping, treatment or disposal, for the inspection of the records and for the furnishing by such persons to the Department of copies of or information derived from the records;
- (f) for the keeping in the register under Article 34(1) of copies of such of those records, or such information derived from those records, as may be prescribed;
- (g) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence, which shall not exceed, on summary conviction, a fine at level 5 on the standard scale and, on conviction on indictment, imprisonment for a term of 2 years or a fine or both.

(3) Without prejudice to the generality of paragraph (1), the regulations may include provision—

- (a) for the supervision by the Department—

- (i) of activities authorised under the regulations or of activities by virtue of carrying on which persons are subject to provisions of the regulations, or
  - (ii) of persons who carry on activities authorised by virtue of the regulations or who are subject to provisions of the regulations,
- and for the recovery from persons falling within head (ii) of the costs incurred by the Department in performing functions conferred upon the Department by the regulations;
- (b) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of special waste under the regulations;
  - (c) as to appeals from decisions of the Department under the regulations to the Planning Appeals Commission for determination.
- (4) In this Article “broker” has the same meaning as in Article 5.

### **Waste other than controlled waste**

**31.**—(1) Regulations made after consultation with such bodies as the Department considers appropriate may provide that prescribed provisions of this Part shall have effect in a prescribed area—

- (a) as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in subparagraph (c) of the definition of “commercial waste” in Article 2(2) which is of a kind so specified; and
- (b) with such modifications as may be prescribed;

and the regulations may make such modifications of any statutory provision (other than the prescribed provisions mentioned in paragraph (1)), as the Department considers appropriate.

- (2) A person who deposits, or knowingly causes or knowingly permits the deposit of, any waste—
- (a) which is not controlled waste, but
  - (b) which, if it were controlled waste, would be special waste,

in a case where he would be guilty of an offence under Article 4 if the waste were special waste and any management licence were not in force, shall, subject to paragraph (3), be guilty of that offence and punishable as if the waste were special waste.

(3) No offence is committed under paragraph (2) if the act charged was done under and in accordance with any consent, licence, approval or authority granted under any statutory provision (excluding any planning permission under the Planning (Northern Ireland) Order 1991.)

(4) Article 20(2) and Article 22(1) shall apply to waste other than controlled waste as they apply to controlled waste.