
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART II

WASTE ON LAND

Waste Management Licences

Waste management licences: general

6.—(1) A waste management licence is a licence granted by the Department authorising the treatment, keeping or disposal of any specified description of controlled waste in or on specified land or the treatment or disposal of any specified description of controlled waste by means of specified mobile plant.

(2) A licence shall be granted to the following person, that is to say—

- (a) in the case of a licence relating to the treatment, keeping or disposal of waste in or on land, to the person who is in occupation of the land; and
- (b) in the case of a licence relating to the treatment or disposal of waste by means of mobile plant, to the person who operates the plant.

(3) A licence shall be granted on such terms and subject to such conditions as appear to the Department to be appropriate and the conditions may relate—

- (a) to the activities which the licence authorises, and
- (b) to the precautions to be taken and works to be carried out in connection with or in consequence of those activities;

and accordingly requirements may be imposed in the licence which are to be complied with before the activities which the licence authorises have begun or after the activities which the licence authorises have ceased.

(4) Conditions may require the holder of a licence to carry out works or do other things notwithstanding that he is not entitled to carry out the works or do the thing and any person whose consent would be required shall grant, or join in granting, the holder of the licence such rights in relation to the land as will enable the holder of the licence to comply with any requirements imposed on him by the licence.

(5) Conditions may relate, where waste other than controlled waste is to be treated, kept or disposed of, to the treatment, keeping or disposal of that other waste.

(6) Regulations may make provision as to the conditions which are, or are not, to be included in a licence.

(7) Any person who—

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- (a) intentionally makes a false entry in any record required to be kept under any condition of a licence, or
- (b) with intent to deceive, forges or uses a licence or makes or has in his possession a document so closely resembling a licence as to be likely to deceive,

shall be guilty of an offence and shall be liable—

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

(8) A licence may not be surrendered by the holder except in accordance with Article 13.

(9) A licence is not transferable by the holder but the Department may transfer it to another person under Article 14.

(10) A licence shall continue in force until it is revoked entirely by the Department under Article 12 or it is surrendered or its surrender is accepted under Article 13.

Annotations:

Commencement Information

- II** [Art. 6](#) partly in operation; [art. 6](#) not in operation at date of making see [art. 1\(2\)](#); [art. 6\(1\)-\(3\)\(5\)-\(10\)](#) in operation at 27.11.2003 save for purposes of application to specified activities and otherwise in operation in relation to those activities in accordance with art. 3 of the commencing S.R. by [S.R. 2003/489](#), [arts. 2, 3, Sch.](#); [art. 6\(4\)](#) in operation at 3.4.2008 by [S.R. 2008/138](#), [art. 2](#)

Compensation where rights granted pursuant to Article 6(4) or 12(9)

7.—(1) This Article applies in any case where—

- (a) the holder of a licence is required—
 - (i) by the conditions of the licence; or
 - (ii) by a requirement imposed under Article 12(8),
 to carry out any works or do any other thing which he is not entitled to carry out or do;
- (b) a person whose consent would be required has, pursuant to the requirements of Article 6(4) or 12(9), granted, or joined in granting, to the holder of the licence any rights in relation to any land; and
- (c) those rights, or those rights together with other rights, are such as will enable the holder of the licence to comply with any requirements imposed on him by the licence or, as the case may be, under Article 12(8).

(2) In a case where this Article applies, any person who has granted, or joined in granting, the rights in question shall be entitled to be paid compensation under this Article by the holder of the licence.

(3) Regulations shall provide for the descriptions of loss and damage for which compensation is payable under this Article.

(4) Regulations may—

- (a) provide for the basis on which any amount to be paid by way of compensation under this Article is to be assessed;
- (b) without prejudice to the generality of paragraph (3) and sub-paragraph (a), provide for compensation under this Article to be payable in respect of—
 - (i) any effect of any rights being granted, or

- (ii) any consequence of the exercise of any rights which have been granted;
- (c) provide for the times at which any entitlement to compensation under this Article is to arise or at which any such compensation is to become payable;
- (d) provide for the persons or bodies by whom, and the manner in which, any dispute—
 - (i) as to whether any, and (if so) how much and when, compensation under this Article is payable; or
 - (ii) as to the person to or by whom it shall be paid, is to be determined;
- (e) provide for when or how applications may be made for compensation under this Article;
- (f) without prejudice to the generality of sub-paragraph (d), provide for when or how applications may be made for the determination of any such disputes as are mentioned in that sub-paragraph;
- (g) without prejudice to the generality of sub-paragraphs (e) and (f), prescribe the form in which any such applications as are mentioned in those sub-paragraphs are to be made;
- (h) make provision similar to any provision made by Article 18 of the Land Compensation (Northern Ireland) Order 1982;
- (i) include such incidental, supplemental, consequential or transitional provision as the Department considers appropriate.

Grant of licences

8.—(1) An application for a licence shall be made to the Department and shall be made on a form provided for the purpose by the Department and accompanied by such information as the Department reasonably requires and the fee payable under Article 15.

(2) Where an applicant for a licence fails to provide the Department with any information required under paragraph (1), the Department may refuse to proceed with the application, or refuse to proceed with it until the information is provided.

(3) A licence shall not be granted for a use of land, plant or equipment for which planning permission is required under the Planning (Northern Ireland) Order 1991 or consent under the^[F1] Water (Northern Ireland) Order 1999] is required unless such planning permission is in force or such consent has been granted in relation to that use of the land.

(4) Subject to paragraphs (3) and (5), the Department shall not refuse an application for a licence which has been duly made if it is satisfied that the applicant is a fit and proper person unless it is satisfied that such refusal is necessary for the purpose of preventing—

- (a) pollution of the environment;
- (b) harm to human health; or
- (c) serious detriment to the amenities of the locality;

but sub-paragraph (c) is inapplicable where planning permission is in force in relation to the use to which the land will be put under the licence.

(5) Where the Department proposes to grant a licence, the Department shall, before it does so,—

- (a) refer the proposal to^[F2] the Health and Safety Executive for Northern Ireland and to such other] body or person as the Department considers appropriate; and
- (b) consider any representations about the proposal which^[F2] the Executive or] any such body or person makes to it during the allowed period.

(6) If within the period of 4 months from the date on which the Department received an application for the grant of a licence, or within such longer period as the Department and the applicant may at any time agree in writing, the Department has neither granted the licence in consequence of the application nor given notice to the applicant that the Department has refused the application, the Department shall be deemed to have refused the application.

(7) Paragraph (6)—

- (a) shall not have effect in any case where, under paragraph (2), the Department refuses to proceed with the application in question, and
- (b) shall have effect in any case where, under paragraph (2), the Department refuses to proceed with it until the required information is provided, with the substitution for the period of 4 months there mentioned of the period of 4 months from the date on which the Department received the information.

(8) The period allowed to^{F2} the Executive or] any body or person for the making of representations under paragraph (5) about a proposal is the period of 28 days from the date on which the proposal is received by^{F2} Executive, the body] or, as the case may be, the person, or such longer period as the Department and the^{F2} Executive, the body] or, as the case may be, the person, agree in writing.

(9) This Article shall have effect subject to Article 9.

Annotations:

- F1** 1999 NI 6
F2 1998 NI 18

Consultation before the grant of certain licences

9.—(1) This Article applies where an application for a licence has been duly made to the Department, and the Department proposes to issue a licence subject (by virtue of Article 6(4)) to any condition which might require the holder of the licence to—

- (a) carry out any works, or
- (b) do any other thing,

which he might not be entitled to carry out or do.

(2) Before issuing the licence, the Department shall serve on every person appearing to the Department to be a person falling within paragraph (3) a notice which complies with the requirements set out in paragraph (4).

(3) A person falls within this paragraph if—

- (a) he is the owner, lessee or occupier of any land; and
- (b) that land is land in relation to which it is likely that, as a consequence of the licence being issued subject to the condition in question, rights will have to be granted by virtue of Article 6(4) to the holder of the licence.

(4) A notice served under paragraph (2) shall—

- (a) set out the condition in question;
- (b) indicate the nature of the works or other things which that condition might require the holder of the licence to carry out or do; and
- (c) specify the date by which, and the manner in which, any representation relating to the condition or its possible effects are to be made to the Department by the person on whom the notice is served.

(5) The date which, pursuant to paragraph (4)(c), is specified in a notice shall be a date not earlier than the date on which expires the period—

- (a) beginning with the date on which the notice is served, and
- (b) of such length as may be prescribed.

(6) Before the Department issues the licence it shall, subject to paragraph (7), consider any representations made in relation to the condition in question, or its possible effects, by any person on whom a notice has been served under paragraph (2).

(7) Paragraph (6) does not require the Department to consider any representations made by a person after the date specified in the notice served on him under paragraph (2) as the date by which his representations in relation to the condition or its possible effects are to be made.

Variation of licences

10.—(1) While a licence is in force, the Department may, subject to regulations under Article 6(6),—

- (a) on its own initiative, modify the conditions of the licence to any extent which, in the opinion of the Department, is desirable and is unlikely to require unreasonable expense on the part of the holder; and
- (b) on the application of the licence holder accompanied by the fee payable under Article 15, modify the conditions of his licence to the extent requested in the application.

(2) While a licence is in force, the Department shall, except where it revokes the licence entirely under Article 12, modify the conditions of the licence—

- (a) to the extent which in the opinion of the Department is required for the purpose of ensuring that the activities authorised by the licence do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and
- (b) to the extent required by any regulations in force under Article 6(6).

(3) Any modification of a licence under this Article shall be effected by notice served on the holder of the licence and the notice shall state the time at which the modification is to take effect.

(4) Article 8(5) and (8) shall with the necessary modifications apply to a proposal by the Department to modify a licence under paragraph (1) or (2)(a) as they apply to a proposal to grant a licence, except that—

- (a) the Department may postpone the reference so far as the Department considers that by reason of an emergency it is appropriate to do so; and
- (b) the Department need not consider any representations as respects a modification which, in the opinion of the Department, will not affect^{F3} the Health and Safety Executive for Northern Ireland or] any body or person mentioned in the paragraphs so applied.

(5) If within the period of 2 months from the date on which the Department received an application by the holder of a licence for a modification of it, or within such longer period as the Department and the applicant may at any time agree in writing, the Department has neither granted a modification of the licence in consequence of the application nor given notice to the applicant that the Department has refused the application, the Department shall be deemed to have refused the application.

(6) This Article shall have effect subject to Article 11.

Annotations:

F3 1998 NI 18

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Waste and Contaminated Land (Northern Ireland) Order 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C1** Art. 10 power to apply conferred (10.8.2009) by [Groundwater Regulations \(Northern Ireland\) 2009](#) (S.R. 2009/254), [reg. 13](#) (with [reg. 5](#))

Commencement Information

- I2** Art. 10 partly in operation; [art. 10](#) not in operation at date of making see [art. 1\(2\)](#); [art. 10\(1\)-\(5\)](#) in operation at 27.11.2003 save for purposes of application to specified activities and otherwise in operation in relation to those activities in accordance with [art. 3](#) of the commencing S.R. by S.R. 2003/489, [arts. 2, 3, Sch.](#); [art. 10\(6\)](#) in operation at 3.4.2008 by S.R. 2008/138, [art. 2](#)

Consultation before certain variations

11.—(1) This Article applies where—

- (a) the Department proposes to modify a licence under Article 10(1) or (2)(a); and
- (b) the licence, if modified as proposed, would be subject to a relevant new condition.

(2) For the purposes of this Article, a “relevant new condition” is any condition by virtue of which the holder of the licence might be required to carry out any works or do any other thing—

- (a) which he might not be entitled to carry out or do, and
- (b) which he could not be required to carry out or do by virtue of the conditions to which, prior to the modification, the licence is subject.

(3) Before modifying the licence, the Department shall serve on every person appearing to the Department to be a person falling within paragraph (4) a notice which complies with the requirements set out in paragraph (5).

(4) A person falls within this paragraph if—

- (a) he is the owner, lessee or occupier of any land; and
- (b) that land is land in relation to which it is likely that, as a consequence of the licence being modified so as to be subject to the relevant new condition in question, rights will have to be granted by virtue of Article 6(4) to the holder of the licence.

(5) A notice served under paragraph (3) shall—

- (a) set out the relevant new condition in question;
- (b) indicate the nature of the works or other things which that condition might require the holder of the licence to carry out or do but which he could not be required to carry out or do by virtue of the conditions (if any) to which, prior to the modification, the licence is subject; and
- (c) specify the date by which, and the manner in which, any representations relating to the condition or its possible effects are to be made to the Department by the person on whom the notice is served.

(6) The date which, pursuant to paragraph (5)(c), is specified in a notice shall be a date not earlier than the date on which expires the period—

- (a) beginning with the date on which the notice is served, and
- (b) of such length as may be prescribed.

(7) Before the Department issues the licence it shall, subject to paragraph (8), consider any representations made in relation to the condition in question, or its possible effects, by any person on whom a notice has been served under paragraph (3).

(8) Paragraph (7) does not require the Department to consider any representations made by a person after the date specified in the notice served on him under paragraph (3) as the date by which his representations in relation to the condition or its possible effects are to be made.

(9) The Department may postpone the service of any notice or the consideration of any representations required under this Article so far as the Department considers that by reason of an emergency it is appropriate to do so.

Revocation and suspension of licences

12.—(1) Where a licence is in force and it appears to the Department—

(a) that the holder of the licence has ceased to be a fit and proper person by reason of his having been convicted of a prescribed offence; or

(b) that—

(i) the continuation of the activities authorised by the licence would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and

(ii) the pollution, harm or detriment cannot be avoided by modifying the conditions of the licence;

the Department may exercise, as it thinks fit, either of the powers conferred by paragraphs (3) and (4).

(2) Where a licence is in force and it appears to the Department that the holder of the licence has ceased to be a fit and proper person by reason of the management of the activities authorised by the licence having ceased to be in the hands of a technically competent person, the Department may exercise the power conferred by paragraph (3).

(3) The Department may, under this paragraph, revoke the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the Department specifies in revoking the licence.

(4) The Department may, under this paragraph, revoke the licence entirely.

(5) A licence revoked under paragraph (3) shall cease to have effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the Department in revoking the licence but shall not affect the requirements imposed by the licence which the Department, in revoking the licence, specify as requirements which are to continue to bind the licence holder.

(6) Where a licence is in force and it appears to the Department—

(a) that the holder of the licence has ceased to be a fit and proper person by reason of the management of the activities authorised by the licence having ceased to be in the hands of a technically competent person; or

(b) that—

(i) serious pollution of the environment or serious harm to human health has resulted from, or is about to be caused by, the activities to which the licence relates or the happening or threatened happening of an event affecting those activities; and

(ii) the continuing to carry on those activities, or any of those activities, in the circumstances will continue or, as the case may be, cause serious pollution of the environment or serious harm to human health;

the Department may suspend the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the Department specifies in suspending the licence.

(7) A licence suspended under paragraph (6) shall, while the suspension has effect, be of no effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the Department in suspending the licence.

(8) Where a licence is suspended under paragraph (6), the Department, in suspending it or at any time while it is suspended, may require the holder of the licence to take such measures to deal with or avert the pollution or harm as the Department considers necessary.

(9) A requirement imposed under paragraph (8) may require the holder of a licence to carry out works or do other things notwithstanding that he is not entitled to carry out the works or do the thing and any person whose consent would be required shall grant, or join in granting, the holder of the licence such rights in relation to the land as will enable the holder of the licence to comply with any requirements imposed on him under that paragraph.

(10) Paragraphs (2) to (7) of Article 9 shall, with the necessary modifications, apply where the Department proposes to impose a requirement under paragraph (8) which may require the holder of a licence to carry out any such works or do any such thing as is mentioned in paragraph (9) as they apply where the Department proposes to issue a licence subject to any such condition as is mentioned in paragraph (1) of that Article, but as if—

- (a) the reference in paragraph (3) of that Article to Article 6(4) were a reference to paragraph (9); and
- (b) any reference in those paragraphs—
 - (i) to the condition, or the condition in question, were a reference to the requirement; and
 - (ii) to issuing a licence were a reference to serving a notice, under paragraph (14), effecting the requirement.

(11) The Department may postpone the service of any notice or the consideration of any representations required under Article 9, as applied by paragraph (10), so far as the Department considers that by reason of an emergency it is appropriate to do so.

(12) A person who, without reasonable excuse, fails to comply with any requirement imposed under paragraph (8) otherwise than in relation to^{F4} hazardous waste] shall be guilty of an offence and shall be liable—

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

(13) A person who, without reasonable excuse, fails to comply with any requirement imposed under paragraph (8) in relation to^{F4} hazardous waste] shall be guilty of an offence and shall be liable

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.

(14) Any revocation or suspension of a licence or requirement imposed during the suspension of a licence under this Article shall be effected by notice served on the holder of the licence and the notice shall state the time at which the revocation or suspension or the requirement is to take effect and, in the case of suspension, the period at the end of which, or the event on the occurrence of which, the suspension is to cease.

(15) If the Department is of the opinion that proceedings for an offence under paragraph (12) or (13) would afford an ineffectual remedy against a person who has failed to comply with any

requirement imposed under paragraph (8), the Department may take proceedings in the High Court for the purpose of securing compliance with the requirement.

Annotations:

F4 SR 2005/300

Modifications etc. (not altering text)

C2 Art. 12 power to apply conferred (10.8.2009) by [Groundwater Regulations \(Northern Ireland\) 2009](#) (S.R. 2009/254), **reg. 13** (with **reg. 5**)

Commencement Information

I3 Art. 12 partly in operation; art. 12 not in operation at date of making see [art. 1\(2\)](#); [art. 12\(1\)-\(8\)\(12\)-\(15\)](#) in operation at 27.11.2003 save for purposes of application to specified activities and otherwise in operation in relation to those activities in accordance with art. 3 of the commencing S.R. by [S.R. 2003/489](#), [arts. 2, 3, Sch.](#); [art. 12\(9\)-\(11\)](#) in operation at 3.4.2008 by [S.R. 2008/138](#), **art. 2**

Surrender of licences

13.—(1) A licence may be surrendered by its holder to the Department but, in the case of a site licence, only if the Department accepts the surrender.

(2) The following provisions apply to the surrender and acceptance of the surrender of a site licence.

(3) The holder of a site licence who desires to surrender it shall make an application for that purpose to the Department on a form provided by the Department for the purpose, giving such information and accompanied by such evidence as the Department reasonably requires and accompanied by the fee payable under Article 15.

(4) On receiving an application for the surrender of a site licence the Department—

- (a) shall inspect the land to which the licence relates, and
- (b) may require the holder of the licence to furnish to it further information or further evidence.

(5) The Department shall determine whether it is likely or unlikely that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), will cause pollution of the environment or harm to human health.

(6) In determining the matters referred to in paragraph (5) the Department shall—

- (a) consult with such body or person as the Department considers appropriate; and
- (b) consider any representations which any such body or person makes to it during a period of 28 days from the date of the consultation or such longer period as the Department and the body or person agree in writing.

(7) If the Department is satisfied that the condition of the land is unlikely to cause the pollution or harm mentioned in paragraph (5), the Department shall accept the surrender of the licence; but otherwise the Department shall refuse to accept it.

(8) Where the surrender of a licence is accepted under this Article the Department shall issue to the applicant, with the notice of its determination, a certificate (a “certificate of completion”) stating that it is satisfied as mentioned in paragraph (7) and, on the issue of that certificate, the licence shall cease to have effect.

(9) If within the period of 3 months from the date on which the Department receives an application to surrender a licence, or within such longer period as the Department and the applicant may at any time agree in writing, the Department has neither issued a certificate of completion nor given notice

to the applicant that the Department has refused the application, the Department shall be deemed to have refused the application.

Transfer of licences

14.—(1) A licence may be transferred to another person in accordance with paragraphs (2) to (6) and may be so transferred whether or not the licence is partly revoked or suspended under any provision of this Order.

(2) Where the holder of a licence desires that the licence be transferred to another person (“the proposed transferee”) the licence holder and the proposed transferee shall jointly make an application to the Department for a transfer of the licence.

(3) An application under paragraph (2) for the transfer of a licence shall be made on a form provided by the Department for the purpose, accompanied by such information as the Department may reasonably require and the fee payable under Article 15 and the licence.

(4) If, on such an application, the Department is satisfied that the proposed transferee is a fit and proper person the Department shall effect a transfer of the licence to the proposed transferee.

(5) The Department shall effect a transfer of a licence under this Article by causing the licence to be endorsed with the name and other particulars of the proposed transferee as the holder of the licence from such date specified in the endorsement as may be agreed with the applicants.

(6) If within the period of 2 months from the date on which the Department receives an application for the transfer of a licence, or within such longer period as the Department and the applicants may at any time agree in writing, the Department has neither effected a transfer of the licence nor given notice to the applicants that the Department has refused the application, the Department shall be deemed to have refused the application.

Fees and charges for licences

15.—(1) There shall be charged by and paid to the Department, in respect of applications for licences or relevant applications in respect of licences, and in respect of the holding of licences, such fees and charges as may be provided for by a scheme under paragraph (2).

(2) The Department may make, and from time to time revise, a scheme specifying—

- (a) fees payable in respect of applications for licences or relevant applications in respect of licences, and
- (b) charges payable in respect of the subsistence of licences,

to the Department by persons making applications for or in respect of licences, or holding licences, as the case may be.

(3) The applications in respect of licences which are relevant for the purposes of this Article are—

- (a) applications for a modification of the conditions of a licence;
- (b) applications to surrender a licence; and
- (c) applications for the transfer of a licence.

(4) A copy of the scheme or of the modifications made in the scheme shall be laid before the Assembly.

(5) A scheme under paragraph (2) may in particular—

- (a) provide for different fees or charges to be payable according to the description of activities authorised by licences and the descriptions and amounts of controlled waste to which those activities relate;

- (b) provide for the times at which and manner in which payments of fees or charges are to be made; and
- (c) make such incidental, supplementary and transitional provision as appears to the Department to be appropriate.

[^{F5}(5A) If the holder of a licence fails to pay a charge due in consideration of the subsistence of the licence, the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5B) If the failure to pay continues after conviction of an offence under paragraph (5A), the offender shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-tenth of level 5 on the standard scale for each day on which the offence is continued.

(5C) The court by which the holder of a licence is convicted of an offence under paragraph (5A) or (5B) may order the holder of the licence to pay to the Department any amount outstanding as at the date of conviction in respect of—

- (a) any charge due in consideration of the subsistence of the licence; and
- (b) any expenditure incurred by the Department under Article 16(2) in relation to—
 - (i) the land or mobile plant to which the licence relates; or
 - (ii) any equipment on the land to which the licence relates;

and any amount so ordered to be paid to the Department is enforceable in the same manner as any other sum adjudged to be paid by a conviction of that court.]

(6) If it appears to the Department that the holder of a licence has failed to pay a charge due in consideration of the subsistence of the licence, the Department may, by notice in writing served on the holder, revoke the licence so far as it authorises the carrying on of the activities specified in the licence.

(7) Article 12(5) applies for the purposes of paragraph (6) as it applies for the purposes of paragraph (3) of that Article.

Annotations:

F5 [Art. 15\(5A\)-\(5C\)](#) inserted (17.10.2011) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), [ss. 3, 12](#); [S.R. 2011/312](#), [art. 2](#), [Sch.](#)

Supervision of licensed activities

16.—(1) While a licence is in force the Department shall ensure—

- (a) that the activities authorised by the licence do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and
- (b) that the conditions of the licence are complied with.

(2) For the purpose of paragraph (1), an officer of the Department who is authorised in writing may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the land or in relation to plant or equipment on the land to which the licence relates or, as the case may be, in relation to the mobile plant to which the licence relates.

(3) Where the Department incurs any expenditure under paragraph (2), the Department may recover the amount of the expenditure from the holder or, as the case may be, the former holder of the licence, except where the holder or former holder of the licence shows that there was no emergency requiring any work or except such of the expenditure as he shows was unnecessary.

(4) Where it appears to the Department that a condition of a licence is not being complied with or is likely not to be complied with, then, without prejudice to any proceedings under Article 4(6), the Department may—

- (a) serve on the holder of the licence a notice—
 - (i) stating that the Department is of the opinion that a condition of the licence is not being complied with or, as the case may be, is likely not to be complied with;
 - (ii) specifying the matters which constitute the non-compliance or, as the case may be, which make the anticipated non-compliance likely;
 - (iii) specifying the steps which must be taken to remedy the non-compliance or, as the case may be, to prevent the anticipated non-compliance from occurring; and
 - (iv) specifying the period within which those steps must be taken; and
- (b) if in the opinion of the Department the licence holder has not taken the steps specified in the notice within the period so specified, exercise any of the powers specified in paragraph (5).

(5) The powers referred to in paragraph (4)(b) are the following—

- (a) to revoke the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the Department specifies in revoking the licence;
- (b) to revoke the licence entirely; and
- (c) to suspend the licence so far as it authorises the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the Department in suspending the licence.

(6) If the Department is of the opinion that revocation or suspension of the licence, whether entirely or to any extent, under paragraph (5) would afford an ineffectual remedy against a person who has failed to comply with any requirement imposed under paragraph (4)(a), the Department may take proceedings in the High Court for the purpose of securing compliance with the requirement.

(7) Where a licence is revoked or suspended under paragraph (5), paragraphs (5) and (14) or, as the case may be, paragraphs (7) to (14) of Article 12 shall apply with the necessary modifications as they respectively apply to revocations or suspensions of licences under that Article.

Appeals from decisions with respect to licences

17.—(1) Where—

- (a) an application for a licence or a modification of the conditions of a licence is refused;
- (b) a licence is granted subject to conditions;
- (c) the conditions of a licence are modified;
- (d) a licence is suspended;
- (e) a licence is revoked under Article 12 or 16;
- (f) an application to surrender a licence is refused; or
- (g) an application for the transfer of a licence is refused;

then, except in the case of an application for a transfer, the applicant for the licence or, as the case may be, the holder or former holder of it may appeal from the decision to the Planning Appeals Commission and, in the case of an application for a transfer, the proposed transferee may do so.

(2) Part I of Schedule 2 shall have effect with respect to appeals under paragraph (1).

(3) On receipt of an appeal under paragraph (1) the Planning Appeals Commission shall give notice of the appeal to the Department.

(4) Where, on such an appeal, the Planning Appeals Commission determines that the decision of the Department shall be altered the Department shall give effect to the determination.

(5) While an appeal is pending in a case falling within paragraph (1)(c) or (e), the decision in question shall, subject to paragraph (7), be ineffective; and if the decision in question is confirmed or the appeal is withdrawn the decision shall become effective from the end of the day on which the decision is confirmed or the appeal is withdrawn.

(6) Where an appeal is made in a case falling within paragraph (1)(d), the bringing of the appeal shall have no effect on the decision in question.

(7) Paragraph (5) shall not apply to a decision modifying the conditions of a licence under Article 10 or revoking a licence under Article 12 or 16 in the case of which the notice effecting the modification or revocation includes a statement that in the opinion of the Department it is necessary for the purpose of preventing or, where that is not practicable, minimising pollution of the environment or harm to human health that that paragraph should not apply.

(8) Where the decision under appeal is one falling within paragraph (7) or is a decision to suspend a licence, if, on the application of the holder or former holder of the licence, the Planning Appeals Commission determines that the Department acted unreasonably in excluding the application of paragraph (5) or, as the case may be, in suspending the licence, then—

- (a) if the appeal is still pending at the end of the day on which the determination is made, paragraph (5) shall apply to the decision from the end of that day; and
- (b) the holder or former holder of the licence shall be entitled to recover compensation from the Department in respect of any loss suffered by him in consequence of the exclusion of the application of that paragraph or the suspension of the licence;

and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be determined by arbitration.

(9) Regulations may make provision with respect to appeals under this Article and in particular as to the period within which and the manner in which appeals are to be brought.

Offences of making false or misleading statements or false entries

18.—(1) A person who—

- (a) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part, or
- (b) for the purpose of obtaining for himself or another any grant of a licence, any modification of the conditions of a licence, any acceptance of the surrender of a licence or any transfer of a licence,

makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, shall be guilty of an offence.

(2) A person who intentionally makes a false entry in any record required to be kept by virtue of a licence shall be guilty of an offence.

(3) A person guilty of an offence under this Article shall be liable—

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

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Waste and Contaminated Land (Northern Ireland) Order 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 4A inserted by 2011 c. 5 (N.I.) s. 1
- art. 5(1)(ab) inserted by S.R. 2015/14 reg. 2(3)(a)
- art. 5(2B)-(2F) inserted by S.R. 2015/14 reg. 2(3)(b)
- art. 5A(12A)(13) substituted for art. 5A(13) by 2011 c. 5 (N.I.) s. 5(2)(e)
- art. 5C(2A) inserted by 2011 c. 5 (N.I.) s. 5(4)
- art. 5F(3A) inserted by 2011 c. 5 (N.I.) s. 2(1)
- art. 20(1)(c) inserted & preceding word by S.R. 2015/14 reg. 2(4)(a)(ii)
- art. 20(1A) inserted by S.R. 2015/14 reg. 2(4)(b)
- art. 20A inserted by S.R. 2015/14 reg. 2(5)
- art. 28 28A-28B substituted for art. 28 28A by 2011 c. 5 (N.I.) s. 4
- art. 42A(3A) inserted by 2011 c. 5 (N.I.) s. 2(2)
- art. 58(1A) inserted by 2011 c. 5 (N.I.) s. 8(3)
- art. 70(2A)-(2C) inserted by 2011 c. 5 (N.I.) s. 9

Commencement Orders yet to be applied to the The Waste and Contaminated Land (Northern Ireland) Order 1997

Commencement Orders bringing legislation that affects this Order into force:

- S.R. 2013/33 art. 2 commences (S.I. 2007/611 (N.I.))
- S.R. 2013/34 art. 2 commences (2011 c. 5 (N.I.))
- S.R. 2015/49 art. 2 3 Sch. 1 commences (2011 c. 25 (N.I.))