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STATUTORY INSTRUMENTS

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**2007 No. 611**

**The Waste (Amendment) (Northern Ireland) Order 2007**

*Transport of waste*

**Enforcement powers**

15. For Article 42 of the 1997 Order substitute—

**“Power to require production of authority, stop and search etc**

**42.**—(1) This Article applies where an authorised officer or a constable reasonably believes that controlled waste has been, is being or is about to be transported in contravention of Article 38(1).

(2) The authorised officer or constable may—

- (a) require any person appearing to him to be or to have been engaged in transporting that waste to produce his (or, as the case may be, his employer's) authority to do so;
- (b) search any vehicle that appears to him to be a vehicle that has been, is being or is about to be used for transporting that waste;
- (c) carry out tests on anything found in any such vehicle (including by taking away samples for testing of anything so found);
- (d) seize any such vehicle and any of its contents.

(3) For the purposes of paragraph (2)(a), a person's authority for transporting controlled waste is—

- (a) his certificate of registration as a carrier of controlled waste;
- (b) such copy of that certificate as satisfies requirements prescribed in regulations made by the Department; or
- (c) such evidence as may be so prescribed that he is not required to be registered as a carrier of controlled waste.

(4) Where an authorised officer or constable has required a person to produce an authority under paragraph (2)(a), the person must do so—

- (a) by producing it forthwith to the authorised officer or constable;
- (b) by producing it at a place and within a period specified in regulations made by the Department; or
- (c) by sending it to that place and within that period.

(5) In acting under paragraph (2) an authorised officer or constable may—

- (a) stop any vehicle as referred to in sub-paragraph (b) of that paragraph;
- (b) enter any premises for the purpose specified in sub-paragraph (b) or (d) of that paragraph.

(6) A vehicle or its contents seized under paragraph (2)(d) is seized on behalf of the Department.

- (7) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement imposed under sub-paragraph (a) of paragraph (2);
  - (b) he fails without reasonable excuse to give any assistance that an authorised officer or constable may reasonably request in the exercise of a power under that paragraph;
  - (c) he otherwise intentionally obstructs an authorised officer or constable in the exercise of a power under that paragraph .
- (8) A person is not guilty of an offence by virtue of paragraph (7)(a) unless it is shown—
- (a) that the waste in question was controlled waste; and
  - (b) that the waste was or was being transported to or from a place in Northern Ireland.
- (9) Where an authorised officer or constable has stopped a vehicle under paragraph (5), he may (in addition to any requirement that may be imposed under sub-paragraph (a) of paragraph (2)) require any occupant of the vehicle to give him—
- (a) the occupant’s name and address;
  - (b) the name and address of the registered owner of the vehicle;
  - (c) any other information he may reasonably request.
- (10) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement under paragraph (9);
  - (b) he gives information required under that paragraph that is—
    - (i) to his knowledge false or misleading in a material way, or
    - (ii) given recklessly and is false or misleading in a material way.
- (11) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) In this Article and Articles 42A and 42B “authorised officer” means an officer of the Department who is authorised in writing by the Department for the purposes of those Articles.
- (13) Summary proceedings for an offence under paragraph (11) may be instituted at any time within 12 months after the commission of the offence.

### **Seizure of vehicles etc: supplementary**

**42A.**—(1) Where under Article 42 an authorised officer or a constable seizes a vehicle or its contents (“seized property”) on behalf of the Department, the Department may remove the seized property to such a place as the Department considers appropriate.

(2) The Department must deal with any seized property in accordance with regulations made by the Department.

- (3) Regulations under paragraph (2) may in particular include provision as to—
- (a) the duties of the Department in relation to the safe custody of seized property;
  - (b) the circumstances in which the Department must return any such property to a person claiming entitlement to it;
  - (c) the manner in which such persons, and the seized property to which they are entitled, may be determined;

- (d) the circumstances in which the Department may sell, destroy or otherwise dispose of seized property;
  - (e) the uses to which the proceeds of any such sale may be put.
- (4) Regulations making provision under paragraph (3)(d)—
- (a) must (subject to sub-paragraph (c)) require the Department to publish a notice in such form, and to take any other steps, as may be specified in the regulations for informing persons who may be entitled to the seized property that it has been seized and is available to be claimed;
  - (b) must (subject to sub-paragraph (c)) prohibit the Department from selling, destroying or otherwise disposing of any seized property unless a period specified in the regulations has expired without any obligation arising under the regulations for the Department to return the property to any person;
  - (c) may allow for the requirements in sub-paragraphs (a) and (b) to be dispensed with if the condition of the seized property requires its disposal without delay.”.