

WASTE (AMENDMENT) (NORTHERN IRELAND) ORDER 2007

S.I. 2007 No. 611 (N.I. 3)

EXPLANATORY MEMORANDUM

TRANSPORT OF WASTE

Article 13 – Unregistered transport: defence of acting under employer’s instruction

Under Article 38 of the 1997 Order, it is an offence for anyone who is not a registered carrier of controlled waste to transport such waste within Northern Ireland in the course of any business of his or otherwise with a view to profit. Article 13 amends Article 38 of the 1997 Order so as to remove the defence of acting under one’s employer’s instructions.

Article 14 – Registration requirements and conditions

Article 39 of the 1997 Order sets out provisions relating to the registration of waste carriers. Article 14 amends the provisions relating to certificates of registration for carriers of controlled waste. In particular, it removes the requirement that a certificate of registration must be provided free of charge.

Regulations under this Article may stipulate conditions relating to the vehicles used by registered carriers, and may provide for the revocation of a registration in event of breach of such a condition. In support of this, the Regulations may provide for inspections of such vehicles and charges for such inspections.

Article 15 – Enforcement powers

This Article replaces Article 42 of the 1997 Order. The principal effect is to enable a constable or an authorised officer of the Department to stop, search and seize a vehicle that he reasonably believes is being used in the commission of an offence under Article 38 of that Order (transporting controlled waste without an appropriate registration). A vehicle or its contents seized under this Article are seized on behalf of the Department, and the Article requires the Department to make regulations specifying how it must deal with such seized property.

The Article re-enacts the offence contained in Article 42 of the 1997 Order of failing to comply with a requirement to produce authority for transporting controlled waste, and creates a new offence of failing to assist an authorised officer or a constable. It also empowers an authorised officer or a constable to require any occupant of the vehicle to give his name and address, or that of the registered owner of the vehicle, or any other information he may reasonably request. Failure to provide accurate information is an offence, punishable by a fine not exceeding level 5 on the standard scale (currently £5,000).

Article 16 – Failure to produce authority: fixed penalty notice

This Article inserts a new Article 42B into the 1997 Order. The new Article deals with circumstances where a person fails to produce authority for transporting controlled waste). It provides for such a person to be offered the opportunity to discharge any liability to conviction for the offence by payment of a fixed penalty. The fixed penalty is set at £300, though a different amount may be substituted by an Order made by the Department.

The Department may make provision for treating the fixed penalty as having been paid if a lesser amount is paid within a shorter specified period; the extent and circumstances for doing so may be subject to restrictions made by the Department.