
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 362

Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 and shall come into operation on 21st September 1999.

(2) In these Regulations—

“credit reference agency” has the same meaning as in section 145(8) of the Consumer Credit Act 1974⁽¹⁾;

“date of expiry” means, in relation to a person’s registration as a carrier of controlled waste, the date on which the period of 3 years mentioned in regulation 11(2) expires;

“the 1997 Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997; and

“prescribed offence” means an offence under a statutory provision listed in Schedule 1.

(3) For the purposes of these Regulations, an application for registration or for the renewal of a registration as a carrier of controlled waste shall be treated as pending—

- (a) whilst it is being considered by the Department; or
- (b) if it has been refused or the relevant period from the making of the application has expired without the applicant having been registered, whilst either—
 - (i) the period for appealing in relation to that application has not expired; or
 - (ii) the application is the subject of an appeal which has not been disposed of.

Exemption from registration

2.—(1) The following persons shall not be required for the purposes of Article 38 of the 1997 Order to be a registered carrier of controlled waste—

- (a) a Government Department;
- (b) a district council;
- (c) a producer of the controlled waste in question except where it is building or demolition waste;
- (d) the Northern Ireland Railways Company Limited in relation to carriage by rail;
- (e) a ferry operator in relation to the carriage on the ferry of any vehicle carrying controlled waste;
- (f) the operator of a vessel, aircraft, hovercraft, floating container or vehicle in relation to its use, after it has been loaded with waste in circumstances in which a licence under Part II of the Food and Environmental Protection Act 1985⁽²⁾ is needed or would be needed but

(1) 1974 c. 39

(2) 1985 c. 48; sections 5 and 6 were amended by section 146(2) and (3) of the Environmental Protection Act 1990 (1990 c. 43)

for an order under section 7 of that Act, for transporting the waste in order to carry out any operation mentioned in section 5 or 6 of that Act;

- (g) a charity within the meaning of section 35 of the Charities Act (Northern Ireland) 1964⁽³⁾;
- (h) a voluntary body within the meaning of section 148 of the Local Government Act (Northern Ireland) 1972⁽⁴⁾;
- (i) a person who before 11th March 2000 applies in accordance with these Regulations for registration as a carrier of controlled waste but only whilst his application is pending;
- (j) a person who—
 - (i) is the holder of a licence under regulation 5(4) of the Animal By-Products Regulations (Northern Ireland) 1993⁽⁵⁾; or
 - (ii) has obtained an approval under regulation 7 of those Regulations; or
 - (iii) is registered under regulation 8 or 9 of those Regulations,
 in relation to the transport of animal by-products in accordance with Schedule 2 to those Regulations in connection with the activity to which the licence, approval or registration relates; or
- (k) a person who is engaged in the business of removing animal protein in accordance with the provisions of the Diseases of Animals (Animal Protein) (No. 2) Order (Northern Ireland) 1989⁽⁶⁾.

(2) In this regulation—

“animal by-products” has the same meaning as in regulation 2(1) of the Animal By-Products Regulations (Northern Ireland) 1993;

“animal protein” has the same meaning as in regulation 3(1) of the Diseases of Animals (Animal Protein) (No. 2) Order (Northern Ireland) 1989;

“building or demolition waste” means waste arising from works of construction or demolition, including waste arising from work preparatory thereto;

“construction” includes improvement, repair or alteration.

Registers

3.—(1) The Department shall establish and maintain a register of carriers of controlled waste and—

- (a) secure that the register is open for inspection by any person, free of charge at all reasonable hours; and
- (b) afford to any person reasonable facilities for obtaining copies of entries in the register on payment of reasonable charges.

(2) A register under this regulation may be kept in any form but shall be indexed and arranged so that any person can readily trace the information contained in it.

Applications for registration

4.—(1) An application for registration or for the renewal of a registration as a carrier of controlled waste shall be made to the Department.

(3) 1964 c. 33 (N.I.)

(4) 1972 c. 9 (N.I.)

(5) S.R. 1993 No. 192 as amended by S.R. 1998 No. 108

(6) S.R. 1989 No. 347 as amended by S.R. 1992 No. 62 and S.R. 1993 No. 193

(2) Subject to paragraphs (3) to (5), a person shall not make an application for registration or for the renewal of a registration whilst—

- (a) a previous application of his is pending; or
- (b) he is registered.

(3) Paragraph (2) shall not prevent a person from applying for the renewal of a registration where his application is made within the period of six months mentioned in regulation 11(4).

(4) An application for registration or for the renewal of a registration in respect of a business which is or is to be carried on by a partnership shall be made by all of the partners or prospective partners.

(5) A prospective partner in a business carried on by a partnership whose members are already registered may make an application for registration as a partner in that business.

(6) An application for registration or for renewal of a registration shall be made on a form provided for the purpose by the Department, and shall be accompanied by such information as the Department may reasonably require.

(7) The Department shall provide a copy of any form mentioned in paragraph (6) free of charge to any person requesting one.

(8) The Department shall charge an applicant in respect of its consideration of his application—

- (a) in the case of an application for registration, £120;
- (b) in the case of an application for the renewal of registration, £60,

and the applicant shall pay the charge when he makes his application.

(9) The Department shall, on receipt of an application for registration or for the renewal of a registration, ensure that the register contains a copy of the application.

(10) The Department may remove from its register a copy of an application included under paragraph (9) at any time more than 6 years after the application was made.

Refusal of applications

5.—(1) Subject to Article 40(6) of the 1997 Order, the Department may refuse an application for registration or for the renewal of a registration if, and only if—

- (a) there has, in relation to that application, been a contravention of any of the requirements of regulation 4; or
- (b) the applicant or another relevant person has been convicted of a prescribed offence and in the opinion of the Department, it is undesirable for the applicant to be authorised to transport controlled waste.

(2) Where the Department decides to refuse an application for registration or for the renewal of a registration, it shall give notice to the applicant informing him that his application is refused and of the reasons for its decision.

(3) If an appeal is made under Article 41(1) of the 1997 Order in accordance with these Regulations, the Department shall, as soon as reasonably practicable, make appropriate entries in its register indicating when the appeal was made and the result of the appeal.

(4) If no appeal is made under Article 41(1) of the 1997 Order, the Department shall, as soon as reasonably practicable, make an appropriate entry in its register indicating that the application has been refused and that no appeal has been made.

(5) The Department may remove an entry made under paragraph (3) or (4) at any time more than 6 years after the application in question was made.

Registration as a carrier

6.—(1) On accepting a person’s application for registration or where following an appeal in respect of such an application it is determined under Article 41(6) of the 1997 Order to register a person, the Department shall make an entry in its register—

- (a) showing that person as a registered carrier of controlled waste and allocating him a registration number (which may include any letter);
- (b) specifying the date on which the registration takes effect and its date of expiry;
- (c) stating any business name of his and the address of his principal place of business (together with any telephone, telex or fax number of his) and, in the case of an individual, his date of birth;
- (d) in the case of a body corporate, listing the names of each director, manager, secretary or other similar officer of that body and their respective dates of birth;
- (e) in the case of a company within the meaning of Article 3(1) of the Companies (Northern Ireland) Order 1986(7), specifying its registered number and, in the case of a company incorporated outside Northern Ireland, the country in which it was incorporated;
- (f) in a case where the person who is registered or another relevant person has been convicted of a prescribed offence, giving the person’s name, details of the offence, the date of conviction, the penalty imposed, the name of the Court and, in the case of an individual, his date of birth; and
- (g) in a case where the person who is registered or any company in the same group of companies as that person is the holder of a waste management licence or a disposal licence stating the name of the holder of the licence and the name of the authority which granted it.

(2) In the case of a business which is or is to be carried on by a partnership, all the partners shall be registered under one entry and only one registration number shall be allocated to the partnership.

(3) On making an entry in its register under paragraph (1), the Department shall—

- (a) issue to the registered person or partnership a certificate of registration free of charge which shall be in the form set out in Schedule 2, and shall contain the information required by that form; and
- (b) provide that person or partnership free of charge with a copy of the entry in the register.

(4) In this regulation—

“business name” means a name under which a person carries on business and by virtue of which the Business Names (Northern Ireland) Order 1986(8) applies;

“disposal licence” has the same meaning as in Article 5(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978(9); and

“group” has the same meaning as in Article 55(1) of the Companies (Northern Ireland) Order 1990(10).

Amendment of entries

7.—(1) On accepting a person’s application for the renewal of a registration or where following an appeal in respect of such an application it is determined under Article 41(6) of the 1997 Order to register a person, the Department shall amend the relevant entry in the register—

(7) S.I. 1986/1032 (N.I. 6)
(8) S.I. 1986/1033 (N.I. 7)
(9) S.I. 1978/1049 (N.I. 19)
(10) S.I. 1990/593 (N.I. 5)

- (a) to show the date on which the renewal takes effect and the revised date of expiry of the registration;
 - (b) to record any other change disclosed as a result of the application; and
 - (c) to note in the register the date on which the amendments are made.
- (2) The Department shall at the same time as amending the register—
- (a) issue to the registered person or partnership an amended certificate of registration free of charge which shall be in the form set out in Schedule 2, and shall contain the information required by that form;
 - (b) provide that person or partnership free of charge with a copy of the amended entry in the register.

Change of circumstances and registration of additional partners

8.—(1) A person who is registered shall notify the Department of any change of circumstances affecting information in the entry relating to him.

- (2) On—
- (a) being notified of any change of circumstances in accordance with paragraph (1);
 - (b) accepting a prospective partner's application for registration in relation to a business carried on by a partnership whose members are already registered; or
 - (c) a determination under Article 41(6) of the 1997 Order to register such a prospective partner,

the Department shall—

- (i) amend the relevant entry to reflect the change of circumstances or the registration of the prospective partner;
- (ii) note in the register the date on which the amendment is made;
- (iii) if the amendment of the register affects information contained in the certificate of registration, issue to the registered person or partnership free of charge an amended certificate of registration which shall be in the form set out in Schedule 2, and shall contain the information required by that form;
- (iv) provide that person or partnership free of charge with a copy of the amended entry in the register.

Copies of certificates of registration

9.—(1) The Department shall, on payment of its reasonable charges, provide a person who is registered with such copies of his certificate of registration as he may request.

(2) The Department shall ensure that the copies of the certificate are numbered and marked so as to show that they are copies and that they have been provided by it under this regulation.

Revocation of registration

10.—(1) Subject to Article 40(6) of the 1997 Order, the Department may revoke a person's registration as a carrier of controlled waste if, and only if—

- (a) that person or another relevant person has been convicted of a prescribed offence; and
- (b) in the opinion of the Department, it is undesirable for the registered carrier to continue to be authorised to transport controlled waste.

(2) Where the Department decides to revoke a person's registration as a carrier of controlled waste, it shall give notice to the carrier informing him of the revocation and of the reasons for its decision.

(3) If an appeal is made under Article 41(2) of the 1997 Order in accordance with these Regulations, the Department shall, as soon as reasonably practicable, make appropriate entries in its register indicating when the appeal was made and the result of the appeal.

Duration of registration

11.—(1) This regulation is subject to—

- (a) Article 40(2) of the 1997 Order (which ensures that a registration ceases to have effect if the registered carrier gives written notice requiring the removal of his name from the register); and
- (b) Article 41(8) and (9) of the 1997 Order (which extend the period during which the registration has effect where an appeal under that Article is made).

(2) Subject to paragraphs (4) to (6), a person's registration as a carrier of controlled waste shall cease to have effect on the expiry of the period of 3 years beginning with and including the date of the registration or, if it has been renewed, beginning with and including the date on which it was renewed or, as the case may be, last renewed.

(3) The Department shall, no later than 6 months before the expiry of the period of 3 years mentioned in paragraph (2), serve on a registered person—

- (a) a notice informing him of the date on which that period expires and of the effect of paragraph (4); and
- (b) an application form for the renewal of his registration and a copy of his current entry in the register.

(4) Where an application for the renewal of a registration is made within the last 6 months of the period of 3 years mentioned in paragraph (2), the registration shall, notwithstanding the expiry of that period, continue in force—

- (a) until the application is withdrawn or accepted; or
- (b) if the Department refuses the application or the relevant period from the making of the application has expired without the applicant having been registered, until—
 - (i) the expiry of the period for appealing; or
 - (ii) where the applicant indicates within that period that he does not intend to make or continue with an appeal, the date on which such an indication is given.

(5) Where the Department revokes a person's registration, the registration shall, notwithstanding the revocation, continue in force until—

- (a) the expiry of the period for appealing against the revocation; or
- (b) where that person indicates within that period that he does not intend to make or continue with an appeal, the date on which such an indication is given.

(6) A registration in respect of a business which is carried on by a partnership shall cease to have effect if any of the partners cease to be registered or if any person who is not registered becomes a partner.

(7) The duration of a registration in respect of a business which is carried on by a partnership shall not be affected if a person ceases to be a partner or if a prospective partner is registered under regulation 8(2) in relation to the partnership.

(8) Where the Department accepts an application for the renewal of a registration within the period of 3 years mentioned in paragraph (2), the renewal shall for the purposes of these Regulations take effect at the expiry of that period.

Alteration of register to reflect cessation of registration

12.—(1) Where by virtue of regulation 11 or Article 40(2) or 41(8) and (9) of the 1997 Order, a registration ceases to have effect, the Department shall record this fact in the appropriate entry in its register and the date on which it occurred.

(2) The Department may remove the appropriate entry from its register at any time more than 6 years after the registration ceases to have effect.

Duty to return certificates, etc

13. Where—

- (a) a person's registration as a carrier of controlled waste ceases to have effect by virtue of regulation 11 or Article 40(2) or 41(8) and (9) of the 1997 Order; or
- (b) a person is issued with an amended certificate under regulation 7(2) or 8(2),

he shall immediately return to the Department his certificate of registration, or, as the case may be, his previous certificate of registration, together with any copies of it issued by the Department.

Production of authority

14.—(1) Where a person is required by virtue of Article 42 of the 1997 Order, to produce an authority for transporting controlled waste and does not do so by producing it forthwith to the person requiring its production, he shall produce it at or send it to the Department no later than 7 days from the date on which he was required to produce it.

(2) A copy of a person's certificate of registration as a carrier of controlled waste shall for the purposes of Article 42 of the 1997 Order be authority for transporting controlled waste if it was provided by the Department under regulation 9.

Appeals

15.—(1) Notice of an appeal to the Planning Appeals Commission under Article 41(1) or (2) of the 1997 Order shall be given to it in writing.

(2) The notice of appeal mentioned in paragraph (1) shall be accompanied by the following—

- (a) a statement of the grounds of appeal;
- (b) in the case of an appeal under Article 41(1) of the 1997 Order, a copy of the relevant application;
- (c) in the case of an appeal under Article 41(2) of the 1997 Order, a copy of the appellant's entry in the register;
- (d) a copy of any relevant correspondence between the appellant and the Department;
- (e) a copy of any notice given to the appellant under regulation 5(2) or 10(2);
- (f) a statement indicating whether the appellant requests the opportunity of appearing before and being heard by the Planning Appeals Commission.

(3) The appellant shall at the same time as giving notice of appeal to the Planning Appeals Commission serve on the Department a copy of the notice and a copy of the documents mentioned in paragraph (2)(a) and (f).

Time limit for bringing an appeal

16. Notice of appeal shall be given before the expiry of the period of 28 days beginning with and including—

- (a) in the case of an appeal under Article 41(1)(a) of the 1997 Order, the date on which the appellant is given notice by the Department that his application has been refused; or
- (b) in the case of an appeal under Article 41(1)(b) of the 1997 Order, the date on which the relevant period from the making of the application expired without the appellant having been registered; or
- (c) in the case of an appeal under Article 41(2) of the 1997 Order, the date on which the appellant is given notice by the Department that his registration as a carrier of controlled waste has been revoked,

or before such later date as the Department may allow.

Notification of determination

17. The Planning Appeals Commission shall notify the appellant of its determination of the appeal, and reasons for it, and shall at the same time send a copy of its determination to the Department.

Prescribed information

18. The prescribed information for the purposes of Article 43(1)(c) of the 1997 Order is the name and address of the person who was using the vehicle at the time when the offence was committed.

Prescribed steps to be taken before applying for a warrant to seize property

19.—(1) The prescribed steps for the purposes of Article 43(1)(c) of the 1997 Order are provided by paragraphs (2) and (3).

(2) The Department shall—

- (a) in the case of a vehicle with a Northern Ireland registration mark, obtain the name and address of the person shown in its records, at the time when the offence was committed, as the registered keeper of the vehicle;
- (b) in the case of a vehicle with a GB registration mark, provide the Secretary of State for the Department of the Environment, Transport and the Regions with the details of the registration mark and of the time when the offence was committed and a brief description of the vehicle, requesting his help in finding the person who was the owner of the vehicle at that time and explain the reason for making the request;
- (c) in any other case, provide the Chief Constable of the Royal Ulster Constabulary with details of the foreign registration mark (if any) and of the time when the offence was committed and a brief description of the vehicle, request his help in finding the person who was the owner of the vehicle at that time and explain the reason for making the request.

(3) The Department shall serve notice under Article 44(1) of the 1997 Order on any person whom it considers (whether as a result of action taken under paragraph (2) or otherwise) may be able to provide it with the name and address of the person who was using the vehicle at the time when the offence was committed, requiring him, if he is able to do so, to provide it with the name and address of that person.

(4) In this regulation—

“foreign registration mark” means a mark indicating registration in some country other than Great Britain or Northern Ireland;

“GB registration mark” means a mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994⁽¹¹⁾ indicating registration in Great Britain;

“Northern Ireland registration mark” means a registration mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994 indicating registration in Northern Ireland; and

“owner” includes a person entitled to possession of a vehicle under a hiring agreement or hire purchase agreement.

Removal of vehicles seized

20.—(1) A vehicle or its contents seized under Article 43 of the 1997 Order on behalf of the Department may be removed under paragraph (5) of that Article in the manner set out in paragraphs (2) and (3).

(2) The vehicle may be driven, towed or removed by such other means as are reasonable in the circumstances and any necessary steps may be taken in relation to the vehicle in order to facilitate its removal.

(3) Any contents of the vehicle may be removed separately in cases where—

- (a) it is reasonable to do so to facilitate removal of the vehicle;
- (b) there is good reason for storing them at a different place from the vehicle; or
- (c) their condition requires them to be disposed of without delay.

Return of property seized

21.—(1) Unless the relevant property has already been disposed of under regulation 22, the Department shall return any property seized under Article 43 of the 1997 Order to a person who—

- (a) produces satisfactory evidence of his entitlement to it and of his identity and address; or
- (b) where he seeks to recover the property as the agent of another person, produces satisfactory evidence of his identity, his address and his authority to act on behalf of his principal and of his principal’s identity, address and entitlement to the property; and
- (c) where the property is a vehicle and the person seeking its return (or in a case falling within sub-paragraph (b), his principal) purports to be the keeper or the user of the vehicle, produces the registration book for the vehicle.

(2) Where the person claiming to be entitled to a vehicle establishes his entitlement, he shall be treated for the purposes of this regulation as also entitled to its contents unless and to the extent that another person has claimed them or part of them.

(3) Where there is more than one claim to the property, the Department shall determine which person is entitled to the property on the basis of the evidence provided to it.

Disposal of property seized

22.—(1) The Department may sell, destroy or deposit at any place property seized under Article 43 of the 1997 Order if—

- (a) the Department has published a notice in a newspaper circulating in the area in which the property was seized—
 - (i) giving the Department’s name, a brief description of the property seized and the vehicle’s registration mark (if any);

- (ii) indicating the time and place at which, and the powers under which, it was seized on behalf of the Department;
 - (iii) stating that it may be claimed at the place and at the times specified in the notice and that, if no-one establishes within that period that he is entitled to the return of the property, the Department intends to dispose of it after the expiry of that period unless its condition requires its earlier disposal;
- (b) the Department has served a copy of the notice on—
- (i) any person on whom a notice under Article 44(1) of the 1997 Order has been served by virtue of regulation 19(3) in relation to the relevant vehicle;
 - (ii) the Chief Constable of the Royal Ulster Constabulary;
 - (iii) the Secretary of State for the Department of the Environment, Transport and the Regions;
 - (iv) such credit reference agency as it considers relevant; and
- (c) either—
- (i) the period of 28 days, beginning with and including the date on which notice is published under sub-paragraph (a) or, if later, a copy of that notice is served under sub-paragraph (b), has expired without any obligation arising under regulation 21 for the Department to return the property to any person; or
 - (ii) the condition of the property requires it to be disposed of without delay.
- (2) The period specified in a notice under paragraph (1)(a)(iii) shall be the period mentioned in paragraph (1)(c)(i).

Notice of disposal of a vehicle

23. After disposing of any vehicle under regulation 22, the Department shall serve notice of the disposal on the following persons—

- (a) the Chief Constable of the Royal Ulster Constabulary;
- (b) the Secretary of State for the Department of the Environment, Transport and the Regions;
- (c) such credit reference agency as it considers relevant.

Application of proceeds of sale

24.—(1) The proceeds of the sale of any property sold by the Department under regulation 22 shall be applied towards meeting expenses incurred by the Department in exercising its function by virtue of Article 43 of the 1997 Order and, in so far as it is not so applied, in meeting any claim to the proceeds of sale made and established in accordance with paragraph (2).

(2) A claim to the proceeds of sale of any property shall be established if the claimant provides the Department with satisfactory evidence that he would have been entitled to the return of the property under regulation 21 if the property had not been sold.

Sealed with the Official Seal of the Department of the Environment on

L.S.

20th August 1999.

R. W. Rogers
Assistant Secretary