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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**

*Registration of carriers of controlled waste*

**Offence of transporting controlled waste without registering**

**38.**—(1) Subject to the following provisions of this Article, if any person who is not a registered carrier of controlled waste, in the course of any business of his or otherwise with a view to profit, transports any controlled waste to or from any place in Northern Ireland he shall be guilty of an offence.

(2) A person shall not be guilty of an offence under this Article in respect of—

- (a) the transport of controlled waste within the same premises between different places in those premises;
- (b) the transport to a place in Northern Ireland of controlled waste which has been brought from a country or territory outside Northern Ireland and is not landed in Northern Ireland until it arrives at that place;
- (c) the transport by air or sea of controlled waste from a place in Northern Ireland to a place outside Northern Ireland.

(3) Regulations may provide that a person shall not be required for the purposes of this Article to be a registered carrier of controlled waste if—

- (a) he is a prescribed person or a person of such a description as may be prescribed; or
- (b) without prejudice to sub-paragraph (a), he is a person in relation to whom the prescribed requirements [<sup>F1</sup>under the law of any part of the United Kingdom or any EU] member State are satisfied.

(4) In proceedings against any person for an offence under this Article in respect of the transport of any controlled waste it shall be a defence for that person to show—

- (a) that the waste was transported in an emergency of which notice was given, as soon as practicable after it occurred, to the Department; [<sup>F2</sup>or]
- (b) that he neither knew nor had reasonable grounds for suspecting that what was being transported was controlled waste and took all such steps as it was reasonable to take for ascertaining whether it was such waste; <sup>F3</sup> . . .
- (c) <sup>F3</sup> . . . . .

(5) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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**Changes to legislation:** *The Waste and Contaminated Land (Northern Ireland) Order 1997, Section 38 is up to date with all changes known to be in force on or before 25 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(6) In this Article “emergency”, in relation to the transport of any controlled waste, means any circumstances in which, in order to avoid, remove or reduce any serious danger to the public or serious risk of damage to the environment, it is necessary for the waste to be transported from one place to another without the use of a registered carrier of such waste.

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| <p><b>F1</b> Words in art. 38(3)(b) substituted (31.12.2020) by <a href="#">The Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019</a> (S.I. 2019/584), regs. 1, <b>11</b>; 2020 c. 1, Sch. 5 para. 1(1)</p> <p><b>F2</b> Word in art. 38(4)(a) inserted (25.6.2007) by <a href="#">Waste (Amendment) (Northern Ireland) Order 2007</a> (S.I. 2007/611 (N.I. 3)), arts. 1(3), <b>13(1)(a)</b> (with art. 13(2)); S.R. 2007/294, <b>art. 2</b>, Sch.</p> <p><b>F3</b> Art. 38(4)(c) and preceding word repealed (25.6.2007) by <a href="#">Waste (Amendment) (Northern Ireland) Order 2007</a> (S.I. 2007/611 (N.I. 3)), arts. 1(3), 13(1)(b), 20, <b>Sch.</b> (with art. 13(2)); S.R. 2007/294, <b>art. 2</b>, Sch.</p> |
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**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. 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](#)