
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART III

CONTAMINATED LAND

Identification and designation of special sites

51.—(1) If at any time it appears to a district council that any contaminated land in its district might be land which is required to be designated as a special site, the council—

- (a) shall decide whether or not the land is land which is required to be so designated; and
- (b) if the council decides that the land is land which is required to be so designated, shall—
 - (i) give notice of that decision to the Department and to the relevant persons; and
 - (ii) send to the Department a statement of its reasons for reaching the decision.

(2) For the purposes of this Article, “the relevant persons” at any time in the case of any land are the persons who at that time fall within sub-paragraphs (a) to (c), that is to say—

- (a) the owner of the land;
- (b) any person who appears to the district council concerned to be in occupation of the whole or any part of the land; and
- (c) each person who appears to the council to be an appropriate person.

(3) Before making a decision under paragraph (1)(a) in any particular case, a district council shall request the advice of the Department, and in making its decision shall have regard to any advice given by the Department in response to the request.

(4) If at any time the Department considers that any contaminated land is land which is required to be designated as a special site, the Department may give notice of that fact to the district council in whose district the land is situated.

(5) Where notice under paragraph (4) is given to a district council, the council shall decide whether the land in question—

- (a) is land which is required to be designated as a special site, or
- (b) is not land which is required to be so designated,

and shall give notice of that decision to the Department and to the relevant persons and shall send to the Department a statement of its reasons for reaching the decision.

(6) Where a district council makes a decision falling within paragraph (1)(b) or (5)(a), the decision shall, subject to Article 52, take effect from—

- (a) the expiration of the period of 21 days from the day on which the notice required by virtue of paragraph (1)(b)(i) or, as the case may be, (5)(a) is given to the Department;

- (b) if the Department gives notice to the district council in question that it agrees with the decision, the date of the giving of that notice;

whichever first occurs, and where a decision takes effect under this paragraph, the council shall give notice of that fact to the relevant persons.

(7) Where a decision that any land is land which is required to be designated as a special site takes effect in accordance with paragraph (6), the notice given under paragraph (1)(b)(i) or, as the case may be, (5)(a) shall have effect, as from the time when the decision takes effect, as the designation of that land as such a site.

(8) For the purposes of this Part, land is required to be designated as a special site if, and only if, it is land of a description prescribed for the purposes of this paragraph.

(9) Without prejudice to the generality of the power to prescribe any description of land for the purposes of paragraph (8), the Department, in deciding whether to prescribe a particular description of contaminated land for those purposes, may, in particular, have regard to—

- (a) whether land of the description in question appears to the Department to be land which is likely to be in such a condition, by reason of substances in, on or under the land that—
 - (i) serious harm would or might be caused, or
 - (ii) serious pollution of waterways or underground strata would be, or would be likely to be, caused; or
- (b) whether the district council is likely to have expertise in dealing with the kind of significant harm, or pollution of waterways or underground strata, by reason of which land of the description in question is contaminated land.