
STATUTORY INSTRUMENTS

2007 No. 611

The Waste (Amendment) (Northern Ireland) Order 2007

Waste collection and disposal

Offences relating to waste receptacles: fixed penalty notices

10. In the 1997 Order after Article 22 (receptacles for commercial or industrial waste) insert—

“Fixed penalty notices for offences under Articles 21 and 22

22A.—(1) This Article applies where on any occasion an authorised officer of a district council has reason to believe that a person has committed an offence under Article 21 or 22 in the district of that council.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the council.

(3) Where a person is given a notice under this Article in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of the period of 14 days following the date of the notice; and
- (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(4) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this Article must also state—

- (a) the period during which, by virtue of paragraph (3), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty to the person mentioned in paragraph (5)(c) at the address so mentioned.

(7) Where a letter is sent in accordance with paragraph (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this Article is to be such as the Department may by order prescribe.

(9) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the chief finance officer of the council, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this Article—

“authorised officer”, in relation to a council, means—

- (a) an employee of the council who is authorised in writing by the council for the purposes of giving notices under this Article;
- (b) any person who, in pursuance of arrangements made with the council, has the function of giving such notices and is authorised in writing by the council to perform that function;
- (c) any employee of such a person who is authorised in writing by the council for the purpose of giving such notices;

“chief finance officer”, in relation to a council, means the person having responsibility for the financial affairs of the council.

Amount of fixed penalty under Article 22A

22B.—(1) This Article applies in relation to a fixed penalty payable to a district council in pursuance of a notice under Article 22A.

(2) The amount of the fixed penalty is £100.

(3) The council may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the council.

(4) The Department may by regulations make provision in connection with the power conferred on councils under paragraph (3) and such regulations may (in particular) restrict the extent to which, and the circumstances in which, a council can make provision under that paragraph.

(5) The Department may by order substitute a different amount for the amount for the time being specified in paragraph (2).

Use of fixed penalty receipts

22C.—(1) A district council may use amounts received by it under Article 22A (its “fixed penalty receipts”) only for the purposes of—

- (a) its functions under this Part (including functions relating to the enforcement of offences under this Part); and
- (b) such other of its functions as may be specified in regulations made by the Department.

(2) Regulations under paragraph (1) may (in particular) have the effect that a council may use its fixed penalty receipts for the purposes of any of its functions relating to waste.

(3) A council must supply the Department with such information relating to its use of its fixed penalty receipts as the Department may require.

(4) The Department may by regulations—

- (a) make provision for what a council is to do with its fixed penalty receipts—
 - (i) pending their being used for the purposes of functions of the council referred to in paragraph (1);
 - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
- (b) make provision for accounting arrangements in respect of a council’s fixed penalty receipts.

(5) The provision that may be made under paragraph (4)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Department) other than the council.

(6) Before making regulations under this Article, the Department must consult—

- (a) district councils; and
- (b) such other persons as the Department thinks fit.”.