

WASTE (AMENDMENT) (NORTHERN IRELAND) ORDER 2007

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

EXPLANATORY MEMORANDUM

WASTE COLLECTION AND DISPOSAL

Article 10 – Offences relating to waste receptacles

This Article inserts new Articles 22A, 22B and 22C into the 1997 Order. The new Articles apply where an authorised officer of a district council believes that a person has committed an offence under Article 21 or Article 22 of the 1997 Order. It enables the officer to issue a notice to that person, offering him the opportunity to discharge any liability to conviction for that offence by payment of a fixed penalty. Article 22B fixes the amount of the fixed penalty at £100, which may be substituted by a different amount by an order made by the Department. The council may choose to treat 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.

Article 22C allows a district council to use amounts raised through these fixed penalties for the exercise of its functions under Part II of the 1997 Order, or such other purposes as may be specified in regulations made by the Department.

Article 11 – Daily fine for offence under Article 27 of the 1997 Order

Under Article 27 of the 1997 Order, the Department may give directions as to the management of controlled waste. Any person who fails, without reasonable excuse, to comply with such a direction, is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

Article 11 amends Article 27 of the 1997 Order to make provision for a continuing daily offence of failure to comply with a notice served under Article 27.

Article 12 – Power to require owner of land to remove waste

Under Article 28 of the 1997 Order, district councils have powers to deal with controlled waste unlawfully deposited in their area. Article 28 enables a notice to be served by a district council on the *occupier* of land, requiring him to remove the waste or to take remedial action to eliminate or reduce the consequences of the unlawful deposit.

Article 12 inserts a new Article 28A into the 1997 Order which enables a notice to be served on the *owner* of the land in certain specified circumstances. An occupier or owner can appeal the notice if he neither deposited the waste nor knowingly caused or knowingly permitted its deposit. If an occupier or owner fails to comply with the requirements in a notice, a district council has powers to enter the land, remove the waste or take appropriate remedial action, and recover the associated costs.