



# Environment Act 2021

## 2021 CHAPTER 30

### PART 3

#### WASTE AND RESOURCE EFFICIENCY

##### *Managing waste*

#### **59 Electronic waste tracking: Northern Ireland**

- (1) The Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)) is amended as follows.
- (2) After Article 5F insert—

##### *“Electronic waste tracking*

#### **5G Electronic waste tracking**

- (1) The Department may by regulations make provision for the purpose of tracking relevant waste, including provision about the establishment of an electronic system (“the system”) for that purpose.
- (2) The regulations may impose requirements on relevant waste controllers, or the Department, to take specified steps to secure the entry into the system of specified information about, or which is relevant to the tracking or regulation of, specified relevant waste.
- (3) The information which may be specified includes information about—
  - (a) the processing, movement or transfer to another person of relevant waste or waste processing products;
  - (b) persons to whom relevant waste or waste processing products have been transferred;

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*Changes to legislation: There are currently no known outstanding effects  
for the Environment Act 2021, Section 59. (See end of Document for details)*

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- (c) the carrying out of any activity by relevant waste controllers in relation to, or in connection with, relevant waste or waste processing products;
  - (d) relevant waste controllers.
- (4) The regulations may impose requirements on relevant waste controllers to take specified steps to enable physical identification of specified relevant waste or waste processing products.
- (5) The regulations may allow relevant waste controllers, or the Department, to make arrangements for other persons to discharge their obligations under the regulations, and may impose requirements on such persons in connection with such arrangements.
- (6) The regulations must provide for an exemption for digitally excluded persons from any requirement that would involve the use of electronic communications or the keeping of electronic records, but may impose alternative requirements on those persons that do not involve either.
- (7) The regulations may designate a person to establish, operate or maintain the system and may confer functions on such a person.
- (8) The regulations may make provision about how information held on the system is to be used including provision—
- (a) about who may access the information;
  - (b) permitting, or requiring, the disclosure, publication or transfer to another electronic system of such information;
  - (c) imposing requirements on persons who obtain such information not to further disclose it.
- (9) The regulations may impose fees or charges, payable to a person designated by, or in accordance with, the regulations, on persons subject to any requirement imposed by the regulations.
- (10) The amount of such fees or charges may reflect the costs of establishing, operating or maintaining the system and any other costs incurred in connection with the tracking of relevant waste by a person designated to establish, operate or maintain the system.
- (11) The Department may provide grants or loans to a person designated to establish, operate or maintain the system.
- (12) In this Article—
- “digitally excluded person” means a person—
    - (a) who is a practising member of a religious society or order whose beliefs are incompatible with using electronic communications or keeping electronic records, or
    - (b) for whom it is not reasonably practicable to use electronic communications or to keep electronic records for any reason (including age, disability or location);
  - “extractive waste” has the meaning it has in the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 ([S.R. 2015 No. 85](#));
  - “relevant waste” means controlled waste or extractive waste;

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“relevant waste controller” means any person who—

- (a) is subject to the duty in Article 5(1) (duty of care as respects controlled waste),
- (b) imports, produces, carries, keeps, treats, manages or disposes of extractive waste or, as a dealer or broker, has control of such waste, or
- (c) exports relevant waste;

“specified” means specified or described in the regulations;

“waste processing product” means any product of the processing of relevant waste, including material which is not relevant waste or which is not derived from relevant waste.

#### 5H Further provision about regulations under Article 5G

- (1) Regulations under Article 5G may make provision about the enforcement of requirements imposed by or under the regulations.
- (2) The regulations may include provision—
  - (a) creating criminal offences punishable with a fine in respect of failures to comply with the regulations;
  - (b) about such offences.
- (3) The regulations may include provision—
  - (a) for, about or connected with the imposition of civil sanctions by the Department;
  - (b) in the case of a civil sanction that requires the payment of an amount, for that amount—
    - (i) to be specified in the regulations;
    - (ii) to be determined by the Department in accordance with the regulations;
  - (c) for such a determination to be made by reference to factors specified or described in the regulations which may include, for example, the turnover of a business or the costs of complying with the requirement being enforced (and the regulations may provide that the amount to be paid may exceed the amount of those costs);
  - (d) about appeals against the imposition of a civil sanction.
- (4) In this Article “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings).
- (5) The regulations may include provision for the imposition of sanctions of that kind whether or not the conduct in respect of which the sanction is imposed constitutes an offence.
- (6) The regulations may make consequential, supplementary, incidental, transitional or saving provision, including provision amending, repealing or revoking any statutory provision.”

- (3) In Article 82 (regulations etc) after paragraph (1A) insert—

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“(1B) Paragraph (1) does not apply to regulations made by the Department under Article 5G that—

- (a) are the first set of regulations made under that Article,
- (b) provide for conduct to be a criminal offence which is not a criminal offence under existing regulations under that Article,
- (c) increase the maximum penalty for a criminal offence under existing regulations under that Article,
- (d) provide for conduct to be subject to a civil sanction (within the meaning given by Article 5H(4)) which is not subject to a civil sanction under existing regulations under that Article,
- (e) amend or repeal a provision contained in Northern Ireland legislation or an Act of Parliament, or
- (f) amend or revoke a provision contained in retained direct principal EU legislation.

(1C) Regulations to which paragraph (1) does not apply by virtue of paragraph (1B) may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.”

**Commencement Information**

- I1** S. 59 not in force at Royal Assent, see **s. 147(6)**
- I2** S. 59 in force at 28.2.2022 by **S.R. 2022/54, art. 2(1)(i)**

**Changes to legislation:**

There are currently no known outstanding effects for the Environment Act 2021, Section 59.