
STATUTORY INSTRUMENTS

1997 No. 2778

The Waste and Contaminated Land (Northern Ireland) Order 1997

PART II

WASTE ON LAND

Collection, disposal or treatment of controlled waste

[^{F1}Power to require removal of waste unlawfully deposited

28.—(1) If any controlled waste is deposited in or on any land in contravention of Article 4(1), an enforcing authority may, by notice served on him, require the appropriate person to do either or both of the following, that is—

- (a) to remove the waste from the land within a specified period not less than a period of 21 days from the service of the notice;
- (b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.

(2) A person on whom any requirements are imposed under paragraph (1) may, within the period of 21 days mentioned in that paragraph, appeal against the requirement to a court of summary jurisdiction.

(3) On any appeal under paragraph (2) the court shall quash the requirement if it is satisfied that—

- (a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste;
- (b) there is a material defect in the notice; or
- (c) in order to comply with the requirement the appellant would be required to enter the land unlawfully;

and in any other case shall either modify the requirement or dismiss the appeal.

(4) Where a person appeals against any requirement imposed under paragraph (1), the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

(5) If a person on whom a requirement has been imposed under paragraph (1) fails, without reasonable excuse, to comply with the requirement he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) If in the case of a continuing offence under paragraph (5), the offender continues to fail to comply with the requirement he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-tenth of level 5 on the standard scale for each day on which the offence is continued and before the enforcing authority has begun to exercise its powers under paragraph (7).

Changes to legislation: *The Waste and Contaminated Land (Northern Ireland) Order 1997, Section 28 is up to date with all changes known to be in force on or before 22 April 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*

(7) Where a person on whom a requirement has been imposed under paragraph (1) by an enforcing authority fails to comply with the requirement, the enforcing authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the enforcing authority in doing it.

(8) In this Article and Articles 28A and 28B “enforcing authority” means—

- (a) the Department; and
- (b) in relation to land in its district, a district council.]

F1 Arts. 28-28B substituted for art. 20, 28A (2.1.2023) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\), ss. 4, 12; S.R. 2022/289, art. 2\(a\)](#)

Changes to legislation:

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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](#)