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STATUTORY INSTRUMENTS

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**1997 No. 2778**

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

**PART II**

**WASTE ON LAND**

*Duty of care, etc., as respects waste*

**[<sup>F1</sup>Fixed penalty notices for certain offences under Article 5(8)]**

**5A.**—(1) This Article applies where it appears to [<sup>F2</sup>an authorised officer of an enforcing authority] that a person has failed to comply with a duty to furnish documents [<sup>F2</sup>to the enforcing authority] imposed under regulations made at any time under Article 5(7).

(2) The [<sup>F3</sup>authorised officer] may serve on that person a notice offering him the opportunity of discharging any liability to conviction for an offence under Article 5(8) by payment of a fixed penalty.

(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 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 the 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) The fixed penalty payable to [<sup>F4</sup>an enforcing authority] under this Article is, subject to paragraph (10), £300.

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**Changes to legislation:** *The Waste and Contaminated Land (Northern Ireland) Order 1997, Section 5A is up to date with all changes known to be in force on or before 25 March 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*

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(10) The Department may by order substitute a different amount for the amount for the time being specified in paragraph (9).

(11) <sup>F5</sup> [An enforcing authority may] make provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified <sup>F5</sup> [by the enforcing authority] .

(12) In any proceedings a certificate which—

- (a) purports to be signed by an authorised officer; 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.

<sup>F6</sup>(12A) Article 22C (use of fixed penalty receipts by a district council) applies in relation to amounts received by a council under this Article as it applies in relation to amounts received under Article 22A.

(13) In this Article—

“authorised officer” means an officer of the enforcing authority who is authorised in writing by the enforcing authority for the purposes of this Article;

“enforcing authority” means—

- (a) the Department; and
- (b) in relation to an offence committed within its district, a district council.]]

**F1** Art. 5A inserted (11.3.2013) by [Waste \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/611 \(N.I. 3\)\)](#), **arts. 1(3)**, 5; S.R. 2013/33, **art. 2(a)**

**F2** Words in art. 5A(1) substituted (2.1.2023) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), **ss. 5(2)(a)**, 12; S.R. 2022/289, art. 2(b)

**F3** Words in art. 5A(2) substituted (2.1.2023) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), **ss. 5(2)(b)**, 12; S.R. 2022/289, art. 2(b)

**F4** Words in art. 5A(9) substituted (2.1.2023) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), **ss. 5(2)(c)**, 12; S.R. 2022/289, art. 2(b)

**F5** Words in art. 5A(11) substituted (2.1.2023) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), **ss. 5(2)(d)**, 12; S.R. 2022/289, art. 2(b)

**F6** Art. 5A(12A)(13) substituted for art. 5A(13) (2.1.2023) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), **ss. 5(2)(e)**, 12; S.R. 2022/289, art. 2(b)

**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](#)