
STATUTORY INSTRUMENTS

1997 No. 2778

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

**PART I
INTRODUCTORY**

Title and commencement

1.—(1) This Order may be cited as the Waste and Contaminated Land (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint.

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“associated works”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, inspection chamber and manhole and such other works as are prescribed;

“commercial waste” means, subject to paragraph (3), waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—

- (a) household waste;
- (b) industrial waste;
- (c) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949; and
- (d) waste of any other description prescribed for the purposes of this sub-paragraph;

“controlled waste”, subject to Article 31(1), means household, industrial and commercial waste or any such waste;

“the Department” means the Department of the Environment;

“disposal”, in relation to waste, includes its disposal by way of deposit in or on land;

“the environment” consists of all, or any, of the following media, namely, land, water and the air;

“harm” means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes offence to any of his senses or harm to his property; and “harmless” has a corresponding meaning;

“household waste” means, subject to paragraph (3), waste from—

- (a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for the purposes of living accommodation;
- (b) a caravan (as defined in section 25(1) of the Caravans Act (Northern Ireland) 1963) which usually and for the time being is situated on a caravan site (within the meaning of that Act);
- (c) a residential home;
- (d) premises forming part of a university or school or other educational establishment;
- (e) premises forming part of a hospital or nursing home;

“industrial waste” means, subject to paragraph (3), waste from any of the following premises—

- (a) any factory (within the meaning of the Factories Act (Northern Ireland) 1965);
- (b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;
- (c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services; or
- (d) any premises used for the purposes of, or in connection with, the provision to the public of postal or telecommunication services;

“licence” means a waste management licence;

“mobile plant” means, subject to paragraph (4), plant which is designed to move or be moved on roads or otherwise;

“mobile plant licence” means a licence authorising the treatment or disposal of waste by means of mobile plant;

“modifications” includes additions, omissions, amendments and substitutions;

“notice” means notice in writing;

“owner” means the person (other than a mortgagee not in possession) for the time being receiving the rackrent of the land in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the land were let at a rackrent; and for the purposes of this definition—

“mortgage” includes any charge on property for securing money or money’s worth; and

“mortgagee” includes any person from time to time deriving title under the original mortgagee;

“pollution of the environment” means pollution of the environment due to the release or escape (into any environmental medium) from—

- (a) the land on which controlled waste is treated;
- (b) the land on which controlled waste is kept;
- (c) the land in or on which controlled waste is deposited;
- (d) fixed plant by means of which controlled waste is treated, kept or disposed of,

of substances or articles constituting or resulting from the waste and capable (by reason of the quantity or concentrations involved) of causing harm to man or any other living organisms supported by the environment; and this definition applies in relation to mobile plant by means of which controlled waste is treated or disposed of as it applies to plant on land by means of which controlled waste is treated or disposed of;

“prescribed” means prescribed by regulations;

“recover”, in relation to waste, means reduction, reuse and recycling;

“regulations”, except in Article 77, means regulations made by the Department;

“road” has the same meaning as in the Roads (Northern Ireland) Order 1993;

“site licence” means a licence authorising the treatment, keeping or disposal of waste in or on land;

“special waste” means controlled waste as respects which regulations are in operation under Article 30;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“transport”, in relation to any controlled waste, includes the transfer of that waste by road or rail or by air, sea or inland waterway but does not include moving that waste from one place to another by means of any pipe or other apparatus that joins those 2 places;

“vehicle” means any motor vehicle or trailer within the meaning of the Road Traffic (Northern Ireland) Order 1981;

“vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968;

“waste” means any substance or object in the categories set out in Schedule 1 which the holder discards or intends or is required to discard; and for the purposes of this definition—

 “holder” means the producer of the waste or the person who is in possession of it; and

 “producer” means any person whose activities produce waste or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

“the Waste Directive” means the directive of the Council of the European Communities, dated 15th July 1975, on waste, as amended by—

(a) the directive of that Council, dated 18th March 1991, amending directive [75/442/EEC](#) on waste; and

(b) the directive of that Council, dated 23rd December 1991, standardising and rationalising reports on the implementation of certain Directives relating to the environment;

“waste disposal contractor” means a person who in the course of a business collects, keeps, treats or disposes of waste, being either a company formed for all or any of those purposes or 2 or more persons carrying on business in partnership or an individual; and “company” has the same meaning as in the Companies (Northern Ireland) Order 1986 and “formed” includes the alteration of the objects of the company.

(3) Regulations may provide that waste of a prescribed description shall be treated for the purposes of prescribed provisions of this Order as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made under this paragraph in respect of such waste as is mentioned in sub-paragraph (c) of the definition of “commercial waste” and references in that definition and this paragraph to waste do not include sewage except so far as the regulations provide otherwise.

(4) Regulations may prescribe descriptions of plant which are to be treated as being, or as not being, mobile plant for the purposes of this Order.

(5) For the purposes of this Order references to land on which controlled waste is treated, kept or deposited are references to the surface of the land.

(6) Schedule 1 (which reproduces Annex I to the Waste Directive) shall have effect for the purpose of assigning to “waste” in this Order the meaning which it has in the Waste Directive by virtue of paragraphs (a) to (c) of Article 1 of, and Annex I to, that Directive.

(7) For the purposes of this Order, subject to paragraph (8), waste is “treated” when it is subjected to any process, including making it reusable or reclaiming substances from it and “recycle” shall be construed accordingly.

(8) Regulations may prescribe activities as activities which constitute the treatment of waste for the purposes of this Order or any provision of this Order prescribed in the regulations.

(9) The district of a district council which is bounded by or to seaward of the high-water mark of mean tides shall also include for the purposes of this Order, the land between that high-water mark and the low-water mark of ordinary spring tides which is outside that district to seaward of any place where that high-water mark is within or on the boundary of that district.