
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART II

WASTE ON LAND

Other controls on substances, articles or waste

Power to prohibit or restrict the use, supply or storage of injurious substances or articles

32.—(1) Regulations may prohibit or restrict—

- (a) the use for any purpose,
- (b) the supply for any purpose, and
- (c) the storage,

of any specified substance or article if the Department considers it appropriate to do so for the purpose of preventing the substance or article from causing pollution of the environment or harm to human health or to the health of animals or plants.

(2) Regulations under this Article may—

- (a) enable the Department to direct that any substance or article whose use, supply or storage is prohibited or restricted is to be treated as waste or controlled waste of any description and in relation to any such substance or article—
 - (i) to apply, with or without modification, prescribed provisions of this Part; or
 - (ii) to direct that it be disposed of or treated in accordance with the direction;
- (b) confer powers corresponding to those conferred by Article 44 on persons authorised for any purpose of the regulations by the Department or on any district council; and
- (c) include such other incidental and supplemental, and such transitional provisions, as the Department considers appropriate.

(3) Subject to paragraph (4), before it makes any regulations under this Article the Department shall—

- (a) publish in the Belfast Gazette and in any other publication which the Department considers appropriate, a notice indicating the effect of the proposed regulations and specifying—
 - (i) the date on which it is proposed that the regulations will come into operation;
 - (ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours; and
 - (iii) a period of not less than 14 days from the date on which the notice is first published during which representations in writing may be made to the Department about the proposed regulations; and

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(b) consider any representations which are made in accordance with the notice.

(4) Regulations may be made under this Article in relation to any substance or article without observing the requirements of paragraph (3) where it appears to the Department that there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.

(5) After complying with paragraph (3) with respect to any proposed regulations, the regulations may be made either—

(a) in the form of the draft mentioned in paragraph (3)(a), or

(b) in that form with such modifications as the Department considers appropriate;

but regulations incorporating modifications shall not be made unless the Department is of the opinion that it is appropriate for the requirements of paragraph (3) to be disregarded.

(6) Regulations under this Article may provide that a person who contravenes a specified provision of the regulations or causes or permits another person to contravene a specified provision of the regulations commits an offence and may prescribe the maximum penalty for the offence.

(7) No offence under the regulations shall be made punishable with imprisonment for more than 2 years or punishable on summary conviction with a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.

(8) In this Article—

“the environment” includes the air within buildings and the air within other natural or man-made structures above or below ground; and

“substance” includes mixtures of substances.

Power to obtain information about potentially hazardous substances

33.—(1) For the purpose of assessing their potential for causing pollution of the environment or harm to human health, regulations may make provision for and in connection with the obtaining of relevant information relating to substances which may be specified by the Department by order for the purposes of this Article.

(2) The Department shall not make an order under paragraph (1) specifying any substance—

[^{F1}(a) which was first supplied in any part of the United Kingdom or any EU member State on or after 18th September 1981; or]

(b) in so far as it is a regulated substance for the purposes of any relevant statutory provision.

(3) Regulations under this Article may—

(a) prescribe the descriptions of relevant information which are to be furnished under this Article in relation to specified substances;

(b) impose requirements on manufacturers or suppliers generally to furnish information prescribed under sub-paragraph (a);

(c) provide for the imposition of requirements on manufacturers or suppliers generally to furnish relevant information relating to products or articles containing specified substances in relation to which information has been furnished in pursuance of sub-paragraph (b);

(d) provide for the imposition of requirements on particular manufacturers or suppliers to furnish further information relating to specified substances in relation to which information has been furnished in pursuance of sub-paragraph (b);

(e) provide for the imposition of requirements on particular manufacturers to carry out tests of specified substances and to furnish information of the results of the tests;

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- (f) authorise persons to comply with requirements to furnish information imposed on them under the regulations by means of representative persons or bodies;
 - (g) impose restrictions on the disclosure of information obtained under this Article and provide for determining what information is, and what information is not, to be treated as furnished in confidence;
 - (h) create offences, subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale;
 - (i) make any district council or other body designated by the regulations responsible for the enforcement of the regulations to such extent as may be specified in the regulations;
 - (j) include such other incidental and supplemental, and such transitional, provisions as the Department considers appropriate.
- (4) The Department shall have regard, in imposing or providing for the imposition of any requirement under paragraph (3)(b), (c), (d) or (e), to the cost likely to be involved in complying with the requirement.

(5) In this Article—

“relevant information”, in relation to substances, products or articles, means information relating to their properties, production, distribution or use or intended use and, in relation to products or articles, to their disposal as waste;

“substance” includes mixtures of substances.

(6) The statutory provisions which are relevant for the purposes of paragraph (2)(b) are the following—

the^{F2}Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006];

[^{F3}Parts 3 to 8, 12 and 16 of the Human Medicines Regulations 2012] ;

Part IV of the Agriculture Act 1970;

the Misuse of Drugs Act 1971;

Part III of the Food and Environment Protection Act 1985;

the Food Safety (Northern Ireland) Order 1991; and

the Radioactive Substances Act 1993 ;

and a substance is a regulated substance for the purposes of any such statutory provision in so far as any prohibition, restriction or requirement is imposed in relation to it under the statutory provision for the purposes of that statutory provision.

F1 Art. 33(2)(a) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **9**; 2020 c. 1, Sch. 5 para. 1(1)

F2 Words in art. 33(6) substituted (1.12.2006) by [S.R. 2006/425](#), reg. 27(1), **Sch. 6 para. 16** (with reg. 26)

F3 Words in art. 33(6) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 50** (with Sch. 32)

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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](#)