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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**

*Prohibition on unauthorised or harmful depositing, treatment or disposal of waste*

**Prohibition on unauthorised or harmful deposit, treatment or disposal, etc., of waste**

- 4.—(1) Subject to paragraphs (2) and (3) a person shall not—
- (a) deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence;
  - (b) treat, keep or dispose of controlled waste, or knowingly cause or knowingly permit controlled waste to be treated, kept or disposed of—
    - (i) in or on any land, or
    - (ii) by means of any mobile plant,except under and in accordance with a waste management licence;
  - (c) treat, keep or dispose of controlled waste in a manner likely to cause pollution of the environment or harm to human health.

[<sup>F1</sup>(2) Subject to paragraph (2A), sub-paragraphs (a) and (b) of paragraph (1) do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the property.

(2A) Paragraph (2) does not apply to the treatment, keeping or disposal of household waste by an establishment or undertaking.]

(3) Paragraph (1)(a), (b) or (c) do not apply in prescribed cases.

(4) When making regulations under paragraph (3) the Department shall have regard in particular to the expediency of excluding from the controls imposed by waste management licences—

- (a) any deposits which are small enough or of such a temporary nature that they may be so excluded;
- (b) any means of treatment or disposal which are innocuous enough to be so excluded;
- (c) cases for which adequate controls are provided by another statutory provision.

(5) Where controlled waste is carried in and deposited from a vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of paragraph (1)(a), be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

**Changes to legislation:** *The Waste and Contaminated Land (Northern Ireland) Order 1997, Cross Heading: Prohibition on unauthorised or harmful depositing, treatment or disposal of waste is up to date with all changes known to be in force on or before 26 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*

(6) A person who contravenes paragraph (1) or any condition of a waste management licence shall be guilty of an offence.

(7) It shall be a defence for a person charged with an offence under this Article to prove—

(a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(b) <sup>F2</sup> .....

(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

(i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and

(ii) particulars of the acts were furnished to the Department as soon as reasonably practicable after they were done.

<sup>F3</sup>(8) Subject to paragraph (9), a person who commits an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £50,000 or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.

(9) A person (other than an establishment or undertaking) who commits a relevant offence shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(10) In this Article “relevant offence” means an offence under this Article in respect of a contravention of paragraph (1)(c) consisting of the treatment, keeping or disposal within the curtilage of a domestic property of household waste from that property.

(11) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.]

**F1** Art. 4(2)(2A) substituted (31.7.2006) for art. 4(2) by [S.R. 2006/280, reg. 2\(3\)\(a\)](#)

**F2** Art. 4(7)(b) repealed (25.6.2007) by [Waste \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/611 \(N.I. 3\)\)](#), arts. 1(3), 3(1), 20, [Sch.](#) (with art. 3(2)); [S.R. 2007/294, art. 2, Sch.](#)

**F3** Art. 4(8)-(11) substituted (25.6.2007) for art. 4(8)-(10) by [Waste \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/611 \(N.I. 3\)\)](#), arts. 1(3), 4(2) (with art. 4(3)); [S.R. 2007/294, art. 2, Sch.](#)

**Modifications etc. (not altering text)**

**C1** Art. 4(1)(a) excluded (temp. from 31.7.2006) by [S.R. 2006/280, reg. 29\(1\)](#)

**C2** Art. 4(1)(b) excluded (temp. from 31.7.2006) by [S.R. 2006/280, reg. 29\(1\)](#)

**<sup>F4</sup>Fixed penalty notices for offences under Article 4**

**4A.—**(1) This Article applies where on any occasion an authorised officer has reason to believe that a person has committed an offence under Article 4.

(2) The authorised officer may give to that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the enforcing authority.

(3) Where a person is given a notice under this Article in respect of an offence—

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- (a) no proceedings may be instituted for that offence before the 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) Subject to paragraph (10), the fixed penalty payable to an enforcing authority under this Article is an amount fixed by the enforcing authority being—
- (a) not less than £100; and
  - (b) not more than £400.
- (10) The Department may by order substitute a different amount for any amount for the time being specified in paragraph (9).
- (11) 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 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.
- (13) 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.
- (14) 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.]

**F4** [Art. 4A](#) inserted (12.3.2013) by [Waste and Contaminated Land \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 5\)](#), [ss. 1, 12](#); [S.R. 2013/34](#), [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](#)