
STATUTORY INSTRUMENTS

1997 No. 2778

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

PART II

WASTE ON LAND

Registration of carriers of controlled waste

Seizure and disposal of vehicles used for illegal waste disposal

43.—(1) A justice of the peace may issue a warrant in writing to the Department for the seizure of any vehicle if he is satisfied, on complaint on oath,—

- (a) that there are reasonable grounds for believing—
 - (i) that an offence under Article 4 or under Article 5 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (prohibition on unlicensed disposal of waste) has been committed; and
 - (ii) that that vehicle was used in the commission of the offence;
- (b) that proceedings for that offence have not yet been brought against any person; and
- (c) that the Department has failed, after taking the prescribed steps, to ascertain the name and address of any person who is able to provide the Department with the prescribed information about who was using the vehicle at the time when the offence was committed.

(2) Subject to paragraphs (3) and (4), where a warrant under this Article has been issued to the Department in respect of any vehicle, any authorised officer or any constable may stop the vehicle and, on behalf of the Department, seize the vehicle and its contents.

(3) Nothing in this Article shall authorise any person other than a constable in uniform to stop a vehicle on any road; and an authorised officer may not seize any property under this Article unless he is accompanied by a constable.

(4) A warrant under this Article shall continue in force until its purpose is fulfilled or for a period of one month from the date on which it was issued, whichever first occurs; and any person seizing any property under this Article shall, if required to do so, produce both the warrant and any authority under which he is acting under the warrant.

(5) Where any property has been seized under this Article on behalf of the Department, the Department may, in accordance with regulations, remove it to such place as the Department considers appropriate and may retain custody of it until either—

- (a) it is returned, in accordance with the regulations, to a person who establishes that he is entitled to it; or
- (b) it is disposed of by the Department under a power conferred by the regulations to sell or destroy the property or to deposit it at any place.

(6) Regulations under this Article shall not authorise the Department to sell or destroy any property or to deposit any property at any place unless—

- (a) the following conditions are satisfied, that is to say—
 - (i) the Department has published such notice and taken such other steps (if any) as may be prescribed for informing persons who may be entitled to the property that it has been seized and is available to be claimed; and
 - (ii) the prescribed period has expired without any obligation arising under the regulations for the Department to return the property to any person; or
- (b) the condition of the property requires it to be disposed of without delay.

(7) Regulations under this Article may—

- (a) impose obligations on the Department to return any property which has been seized under this Article to a person who claims to be entitled to it and satisfies such requirements for establishing his entitlement, and such other requirements, as may be prescribed;
- (b) provide for the manner in which the person entitled to any such property is to be determined where there is more than one claim to it;
- (c) provide for the proceeds of sale of any property sold by the Department under the regulations to be applied towards meeting expenses incurred by the Department in exercising its functions under this Article and, in so far as they are not so applied, to be applied in such other manner as may be prescribed;
- (d) make provision which treats a person who establishes that he is entitled to a vehicle as having established for the purposes of regulations under this Article that he is also entitled to its contents.

(8) Subject to regulations under this Article making provision for the sale or destruction of any property or for the disposal of it by depositing it at any place, the Department shall, while any property is in its custody by virtue of a warrant under this Article, take such steps as are reasonably necessary for the safe custody of that property.

(9) Any person who intentionally obstructs any authorised officer or constable in the performance of any function conferred under a warrant under this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.