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STATUTORY INSTRUMENTS

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**1978 No. 1049**

**Pollution Control and Local Government  
(Northern Ireland) Order 1978**

**PART II**

**WASTE ON LAND**

**Supplemental**

**Enforcement of Articles 28 and 29**

**33.**—(1) Where an authorised person believes that an offence under Article<sup>F1</sup> . . . 29 has been committed, he may demand the name and address of any person whom he believes to be guilty of the offence.

(2) An authorised person (other than the owner or occupier of land or a constable in uniform) demanding the name and address of any other person under paragraph (1) shall, if so required, produce his credentials.

(3) If a person whose name and address has been demanded under paragraph (1) fails to comply with the demand, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F2</sup> level 2 on the standard scale].

(4) Without prejudice to the right of any other person to institute proceedings for an offence under Article<sup>F1</sup> . . . 29, a district council may institute proceedings for such an offence committed in its district and a district council or public body may institute proceedings for such an offence committed on land controlled or managed by it.

(5) In this Article—

“authorised person” in relation to an offence believed to have been committed, means—

- (a) an officer of the district council within whose district the<sup>F1</sup> . . . land is situated, being an officer authorised by the council to exercise functions under this Article;
- (b) an officer of the district council or public body by whom the<sup>F1</sup> . . . land is controlled or managed, being an officer authorised by the council or body to exercise functions under this Article;
- (c) the owner or occupier of the<sup>F1</sup> . . . land, or any servant or agent of his duly authorised by him in writing, or
- (d) a constable;

“believes” means believes on reasonable grounds.

**F1** 1994 NI 10

**F2** 1984 NI 3

## Interpretation, etc., of Part II

### 36.—(1) In this Part—

*Definition rep. by 1997 NI 19*

“carriageway” means a way constituting or forming part of a road, being a way over which the public have a right of way for the passage of motor vehicles;

[<sup>F3</sup>“controlled waste” has the same meaning as in the Waste and Contaminated Land (Northern Ireland) Order 1997]

*Definition rep. by 1997 NI 19*

“licence”, in relation to a vehicle, means a licence issued in respect of the vehicle under<sup>F4</sup> the Vehicle Excise and Registration Act 1994][<sup>F5</sup>(including a nil licence within the meaning of that Act) ] or anything which appears to the district council concerned to be a corresponding licence in a country other<sup>F4</sup> than the United Kingdom];

*Definition rep. by 1994 NI 10*

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer;

“owner”, in relation to a motor vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

“public body” means any public authority, board, commissioners or public body of any kind constituted by or under any statutory provision whether of a general or special nature;

*Definition rep. by 1997 NI 19*

“road” has the same meaning as in the Roads Act (Northern Ireland) 1948 <sup>F6</sup>;

“waste” includes—

- (a) any substance which constitutes a scrap material or an effluent or other unwanted surplus substance arising from the application of any process; and
- (b) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled,

but does not include a substance which is an explosive within the meaning of the Explosives Acts 1875 to 1970 or any substance [<sup>F7</sup>which is a tier 1 substance within the meaning of the Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014] ;

and for the purposes of this Part any thing which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved.

*Paras. (2)#(4) rep. by 1997 NI 19*

(5) In Articles 19, 28, 29 and 30 any reference to a place or land in the open air includes a reference to a place or land covered only by water.

(6) 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 Part, 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.

**F3** 1997 NI 19

**F4** 1994 c. 22

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**Changes to legislation:** There are currently no known outstanding effects for the Pollution Control and Local Government (Northern Ireland) Order 1978, Supplemental. (See end of Document for details)

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- F5** Words in art. 36(1) inserted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), **ss. 9(4)**, 78; S.R. 2012/13, art. 2(2), Sch. 2
- F6** 1980 NI 11
- F7** Words in art. 36(1) substituted (2.9.2014) by The Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014 (S.R. 2014/224), regs. 1(2), **29(2)** (with reg. 31)

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

- C1** Art. 36 modified (temp. from 1.12.2006) by Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 (S.R. 2006/425), reg. 27(1), **Sch. 6 para. 12** (with reg. 26)

**Changes to legislation:**

There are currently no known outstanding effects for the Pollution Control and Local Government (Northern Ireland) Order 1978, Supplemental.