
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.

Subordinate Legislation Made

- P1** Art. 1(2) power partly exercised: 17.9.1998 appointed for specified provisions by S.R. 1998/288, **art. 2**
Art. 1(2) power partly exercised: 1.12.1998 appointed for specified provisions by S.R. 1998/390, **art. 2**
Art. 1(2) power partly exercised: different dates appointed for specified provisions by S.R. 1999/325, **art. 2, Schs. 1, 2**
Art. 1(2) power partly exercised: 6.10.1999 appointed for specified provisions by S.R. 1999/373, **art. 2, Sch.**
Art. 1(2) power partly exercised: 1.3.2001 appointed for specified provisions by S.R. 2001/40, **art. 2**
Art. 1(2) power partly exercised: 3.6.2002 appointed for specified provision by S.R. 2002/185, **art. 2**
Art. 1(2) power partly exercised: 27.11.2003 (and other ascertainable dates for limited purposes) appointed for specified provisions by S.R. 2003/489, **arts. 2, 3, Sch.**
Art. 1(2) power partly exercised: 3.4.2008 appointed for specified provisions by S.R. 2008/138, **art. 2**

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;

[^{F1}“bio-waste” means biodegradable garden and park waste, food and kitchen waste from households, offices, restaurants, wholesale, canteens, caterers and retail premises and comparable waste from food processing plants;]

[^{F2}“broker” means any person arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;]

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“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; [^{F3}and]
- (c) ^{F4}
- (d) waste of any other description prescribed for the purposes of this sub-paragraph;

^{F5} ...

“controlled waste”^{F6} . . . means household, industrial and commercial waste or any such waste;

[^{F7}“dealer” means any person who acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste;]

“the Department” means [^{F8}the Department of Agriculture, Environment and Rural Affairs];

“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;

[^{F9}“food waste” means controlled waste that was at any time food intended for human consumption (even if of no nutritional value) and includes biodegradable waste produced as a consequence of the processing or preparation of food, but does not include drink;]

“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 waste 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; ^{F10} . . .
- (d) any premises used for the purposes of, or in connection with, the provision to the public of postal or [^{F11} communications services]; [^{F12} or
- (e) any mine or quarry or any premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949;]

“licence” means a waste management licence;

[^{F13}“List of Wastes” means the list of wastes set out in the Annex to Commission Decision 2000/532/EC, as amended from time to time and as also defined in regulation 5 of the Hazardous Waste Regulations (Northern Ireland) 2005]

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“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;

[^{F15}“municipal waste” means—

- (a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture; and
- (b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households,

but does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or waste generated by construction and demolition activities;]

“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 mortgage;

[^{F16}“the Packaging Waste Directive” means the European Parliament and Council Directive of 94/62/EC on packaging and packaging waste [^{F17}, as last amended by Directive (EU) 2018/852”; and] ;]

“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;

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[^{F15}“preparing for re-use” means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;]

[^{F18}“public consultees” means the persons to whose attention proposals for the waste management [^{F19}plan] are brought by the Department pursuant to Article 19B(1)(b);]

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

[^{F20}“recovery” means any operation the principal result of which is the waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy;]

[^{F15}“re-use” means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;]

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

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

[^{F9}“separate collection of food waste” means that food waste is presented for collection, and collected in a manner that ensures that food waste is kept separate from other waste;]

“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;

[^{F21}“waste” means any substance or object 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;]

^{F22}

“waste disposal contractor” means a person who in the course of a business collects, keeps, treats or disposes of waste ^{F23}

[^{F24}“the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste [^{F25}, as last amended by Directive (EU) 2018/851] ;]

[^{F26}“waste management [^{F19}plan]” means the [^{F19}plan] prepared or modified pursuant to Article 19.]

[^{F27c}“waste oils” means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;]

(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; ^{F28} . . . and references in [^{F29}the definition of commercial waste] 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) ^{F30}

(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” [^{F31}(except in Schedule 3)] shall be construed accordingly.

[^{F32}(7A) In Schedule 3—

“prevention” means measures taken before a substance, material or product has become waste that reduce—

- (a) the quantity of waste, including through the re-use of products or the extension of the life span of products;
- (b) the adverse impacts of the generated waste on the environment and human health; or
- (c) the content of hazardous substances in materials and products;

“recycling” means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes, including the reprocessing of organic material but not including energy recovery or reprocessing into materials that are to be used as fuels or for backfilling operations.

(7B) In paragraph (7A) “backfilling” means any recovery operation where an amount of suitable non-hazardous waste is used, in substitution for non-waste materials, for the purposes of reclamation in excavated areas or for engineering purposes in landscaping, and that amount is no more than is strictly necessary to achieve those purposes.]

(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.

<p>F1 Words in art. 2(2) substituted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), 2(2)(b)</p> <p>F2 Art. 2(2): definition of "broker" inserted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), 3(2)(a) (with reg. 9(2))</p> <p>F3 Word in the definition of "commercial waste" in art. 2(2) inserted (31.7.2006) by S.R. 2006/280, reg. 2(2)(a)(i)(aa)</p> <p>F4 Sub-para. (c) in the definition of "commercial waste" in art. 2(2) repealed (31.7.2006) by S.R. 2006/280, reg. 2(2)(a)(i)(bb)</p> <p>F5 Words in art. 2(2) omitted (18.12.2020) by virtue of The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), 2(2)(d)</p>

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- F6** Art. 2(2): words in the definition of "controlled waste" repealed (25.6.2007) by Waste (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/611 (N.I. 3)), arts. 1(3), 20, **Sch.**; S.R. 2007/294, **art. 2**, **Sch.**
- F7** Art. 2(2): definition of "dealer" inserted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), **3(2)(a)** (with reg. 9(2))
- F8** Words in art. 2(2) substituted (28.2.2022) by Environment Act 2021 (c. 30), **ss. 71(1)**, 147(6) (with ss. 71(2), 144); S.R. 2022/54, art. 2(1)(m)
- F9** Words in art. 2(2) inserted (14.2.2015) by The Food Waste Regulations (Northern Ireland) 2015 (S.R. 2015/14), regs. 1(1), **2(2)**
- F10** Word in the definition of "industrial waste" in art. 2(2) deleted (31.7.2006) by virtue of S.R. 2006/280, **reg. 2(2)(a)(ii)(aa)**
- F11** 2003 c. 21
- F12** Art. 2(2): para. (e) and preceding word in definition of "industrial waste" inserted (31.7.2006) by S.R. 2006/280, **reg. 2(2)(a)(ii)(bb)**
- F13** Words in art. 2(2) inserted (1.6.2015) by The Hazardous Waste (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/238), regs. 1(1), **2(2)**
- F14** Words in art. 2(2) inserted (17.8.2015) by The Hazardous Waste (Amendment No. 2) Regulations (Northern Ireland) 2015 (S.R. 2015/288), regs. 1(1), **2(2)**
- F15** Words in art. 2(2) inserted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **2(2)(a)**
- F16** Art. 2(2): definition of "the Packaging Waste Directive" inserted (1.7.2009) by Waste Management Strategy Regulations (Northern Ireland) 2009 (S.R. 2009/178), **reg. 2(2)**
- F17** Words in art. 2(2) inserted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **2(2)(c)(i)**
- F18** Art. 2(2): definition of "public consultees" inserted (1.7.2009) by Waste Management Strategy Regulations (Northern Ireland) 2009 (S.R. 2009/178), **reg. 2(2)**
- F19** Word in art. 2(2) substituted (16.1.2020) by The Waste Regulations (Northern Ireland) 2019 (S.R. 2019/240), regs. 1, **4**
- F20** Words in art. 2(2) inserted (15.7.2016) by The Waste (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/95), regs. 1(1), **2(2)**
- F21** Art. 2(2): definition of "waste" substituted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), **3(2)(b)** (with reg. 9(2))
- F22** Art. 2(2): definition of "the Waste Directive" omitted (8.4.2011) by virtue of Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), **3(2)(c)** (with reg. 9(2))
- F23** Art. 2(2): words in the definition of "waste disposal contractor" omitted (1.10.2009) by virtue of Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 171** (with art. 10)
- F24** Art. 2(2): definition of "the Waste Framework Directive" inserted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), **3(2)(a)** (with reg. 9(2))
- F25** Words in art. 2(2) inserted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **2(2)(c)(ii)**
- F26** Art. 2(2): definition of "waste management strategy" inserted (1.7.2009) by Waste Management Strategy Regulations (Northern Ireland) 2009 (S.R. 2009/178), **reg. 2(2)**
- F27** Art. 2(2): definition of "waste oils" inserted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), **3(2)(a)** (with reg. 9(2))
- F28** Words in art. 2(3) repealed (31.7.2006) by S.R. 2006/280, **reg. 2(2)(b)(i)**
- F29** Words in art. 2(3) substituted (31.7.2006) by S.R. 2006/280, **reg. 2(2)(b)(ii)**
- F30** Art. 2(6) omitted (8.4.2011) by virtue of Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1(1), **3(2)(d)** (with reg. 9(2))
- F31** Words in art. 2(7) inserted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **2(3)**
- F32** Art. 2(7A)(7B) inserted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **2(4)**

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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](#)