

Deposit of Poisonous Waste Act 1972

CHAPTER 21

ARRANGEMENT OF SECTIONS

Section

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ELIZABETH II



Deposit of Poisonous Waste Act 1972

1972 CHAPTER 21

An Act to penalise the depositing on land of poisonous, noxious or polluting waste so as to give rise to an environmental hazard, and to make offenders liable for any resultant damage; to require the giving of notices in connection with the removal and deposit of waste; and for connected purposes. [30th March 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Subject to the provisions of this section, no person shall deposit waste on land, or cause or permit waste to be deposited on land, where the waste is of a kind which is poisonous, noxious or polluting and its presence on the land is liable to give rise to an environmental hazard.

General prohibition on depositing poisonous and other dangerous waste.

(2) For the purposes of this Act, a person is to be treated as depositing waste if he deposits any substance (whether solid, semi-solid or liquid) in such circumstances, or for such a period, that he may reasonably be assumed to have abandoned it where it is deposited or to have brought it to the place where it is deposited for the purpose of its being disposed of (whether by him or others) as waste.

(3) The presence of waste on any land is to be treated as giving rise to an environmental hazard if the waste has been deposited in such a manner, or in such quantity (whether that quantity by itself or cumulatively with other deposits of the same or different

substances) as to subject persons or animals to material risk of death, injury or impairment of health, or as to threaten the pollution or contamination (whether on the surface or under ground) of any water supply; and where waste is deposited in containers, this shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.

(4) In the case of any deposit of waste, the degree of risk relevant for purposes of subsection (3) above shall be assessed with particular regard—

- (a) to the measures, if any, taken by the person depositing the waste, or by the owner or occupier of the land, or by others, for minimising the risk; and
- (b) to any likelihood of the waste, or any container in which it is deposited, being tampered with by children or others.

(5) Subject to the next following subsection, any person who contravenes subsection (1) of this section shall be guilty of an offence and liable—

- (a) on summary conviction to a fine of not more than £400 or to imprisonment for a term of not more than six months, or to both; or
- (b) on conviction on indictment, to imprisonment for not more than five years or a fine, or to both.

(6) It shall be a defence for a person charged with an offence under this section in relation to any deposit of waste—

- (a) where the charge is of depositing waste, or causing or permitting waste to be deposited, to prove—
 - (i) that he acted under instructions given to him by his employer, or
 - (ii) that he relied on information given to him by others with respect to the waste (without any reason to suppose that the information was false or misleading),

and in either case that he neither knew, nor had any reason for supposing, that the waste was of such a kind that it would be an offence to deposit it;

- (b) where the charge is of causing or permitting waste to be deposited, that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

(7) Nothing is to be taken as a contravention of subsection (1) above which is done pursuant to, and in accordance with the terms of, any consent, licence, approval or authority granted under an enactment; but no planning permission granted or deemed to be granted under the enactments relating to town and country planning shall be taken to authorise anything which is a contravention of that subsection.

2.—(1) Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it, or caused or permitted it to be deposited, in either case so as to commit a contravention of section 1(1) of this Act, is liable for the damage except where the damage—

- (a) was due wholly to the fault of the person who suffered it, or
- (b) was suffered by a person who voluntarily accepted the risk thereof.

(2) The matters which may under section 1(6) of this Act be proved by way of defence to a charge of contravening section 1(1) may be proved also by way of defence to an action brought by virtue of subsection (1) above (references in paragraphs (a) and (b) of section 1(6) to the charge being construed as references to the act alleged to give rise to the liability).

(3) In this section—

- (a) “ damage ” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition), and
- (b) “ fault ” has the same meaning as in the Law Reform 1945 c. 28. (Contributory Negligence) Act 1945.

(4) For the purposes of the following enactments, namely—
the Fatal Accidents Acts 1846 to 1959;
the Law Reform (Contributory Negligence) Act 1945; and
the Limitation Acts 1939 and 1963 and the Law Reform 1954 c. 36. (Limitation of Actions, &c.) Act 1954,

and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (1) above shall be treated as due to his fault.

(5) Subsection (1) above is without prejudice to any liability which arises apart from the provisions of this section.

- 3.—(1) Subject to the provisions of this Act, no person shall—
- (a) remove from any premises any waste to which this section applies with a view to its being deposited elsewhere, or cause or permit any such waste to be so removed, or
 - (b) deposit, or cause or permit to be deposited, on any land any waste to which this section applies,

unless each of the authorities responsible under this section has been given (whether by that person or by others) the notices required by this section.

Duty to notify responsible authorities before removing or depositing waste.

(2) The notices referred to above, in relation to any waste, are notices specifying the following particulars with respect to the removal or deposit—

- (a) in the case of removal, the premises from which the waste is to be removed and in any case the land on which it is to be deposited;
- (b) the nature and chemical composition of the waste;
- (c) the quantity which is proposed to be removed or deposited and, where the waste is to be removed or deposited in containers, their number, size and description; and
- (d) in the case of waste to be removed, the name of the person who is to undertake the removal.

(3) A person who gives a notice for the purposes of subsection (1) above in respect of the removal of any waste from premises shall, if the removal is not to be undertaken by him or an employee of his, give a copy of the notice to the person who is to undertake the removal; and the copy shall be given to that person before the waste is removed.

(4) This section applies to waste of any description (whether solid, semi-solid or liquid) other than any description for the time being specified in regulations made by the Secretary of State as being not so poisonous, noxious or polluting that it need be subject to this section; and regulations under this section may exclude the requirement imposed by subsection (1) above, in the case of any removal or deposit of waste—

- (a) where the waste is of a prescribed description and is deposited in any prescribed manner by, or under arrangements made by, persons of any prescribed class, or is deposited in prescribed circumstances (including circumstances of emergency);
- (b) where the deposit is made, or is made in prescribed circumstances, pursuant to any consent, licence, approval or authority granted under an enactment;

and in this subsection “prescribed” means prescribed by regulations of the Secretary of State under this section.

(5) The authorities responsible under this section are—

- (a) in the case of removal of waste from premises, the local authority and the river authority or river purification board for the area in which those premises are situated; and
- (b) in any case the local authority and the river authority or river purification board for the area in which is situated the land on which the waste is to be deposited;

but nothing in this section shall be taken as requiring a notice to be given by any authority to itself.

(6) Notices for the purposes of subsection (1) above must have been given at least three clear days before the removal, or as the case may be the deposit, of any waste; but in reckoning any period of days for the purposes of this subsection, any Saturday, Sunday, Good Friday, Christmas Day or bank holiday shall be disregarded.

(7) Subject to the following subsection, any person who—

(a) contravenes subsection (1) or subsection (3) above, or

(b) in a notice given for the purposes of subsection (1) makes any statement which he knows to be false or does not believe to be true,

shall be guilty of an offence and liable on summary conviction to a fine of not more than £400.

(8) It shall be a defence for a person charged with an offence of contravening subsection (1) above to prove that, while he had not himself given the notices required by this section—

(a) he relied on information that the notices had been given by others; and

(b) that he neither knew nor had any reason for supposing that the information was false or misleading.

(9) Regulations of the Secretary of State under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

4.—(1) In the case of a person carrying on a trade or business Operators of in the course of which he operates any site as a refuse tip, section 3(1)(b) of this Act shall not apply in respect of any deposit of waste on the tip if the person has, not less than three clear days before the day on which the deposit is made, received a copy of any notice given for compliance with section 3(1) in relation to the removal and deposit of that waste. commercial tips.

(2) Such a person shall, within a period of not more than three days beginning with the date on which any waste to which section 3 of this Act applies was deposited on the tip, give notice to each of the authorities responsible under this section specifying the following particulars with respect to the deposit—

(a) the location of the tip;

(b) the nature and chemical composition of the waste;

(c) the quantity which has been deposited and, where the waste has been deposited in containers, their number, size and description;

(d) the name of the person who brought the waste to the tip for the purpose of depositing it there, and the name of that person's employer (if any); and

(e) in a case where he has received such a copy of a notice as is specified in subsection (1) above, the name of the person from whom the notice was received, and the premises from which the waste was removed with a view to its being deposited on the tip.

(3) The authorities responsible under this section are—

(a) in a case where the person operating the tip has, in relation to the waste in question, received such a copy of a notice as is referred to in subsection (1) above, the local authority and the river authority or river purification board for the area in which are situated the premises from which the waste was removed; and

(b) in any case, the local authority and the river authority or river purification board for the area in which the tip is situated.

(4) Subject to the following subsection, any person who—

(a) contravenes subsection (2) above, or

(b) in a notice given for the purposes of that subsection, makes any statement which he knows to be false or does not believe to be true,

shall be guilty of an offence and liable on summary conviction to a fine of not more than £400.

(5) It shall be a defence for a person charged with an offence of contravening subsection (2) above to prove, in relation to any deposit of waste, that he was unaware that the waste was of such a description that section 3 applied to it; but this defence shall be available only if he also proves—

(a) that he took care to inform himself as to the nature and chemical composition of the waste from persons who were in a position to provide such information; and

(b) that he neither knew nor had any reason for supposing that the information given to him was false or misleading.

Local
authorities
and their
functions.

5.—(1) The local authorities for the purposes of this Act are—

(a) in England and Wales, county borough councils, county district councils and the Greater London Council; and

(b) in Scotland, county councils and town councils;

and it shall be the duty of a local authority to enforce this Act in their area, but this subsection shall not in Scotland authorise an authority to institute proceedings for any offence.

1936 c. 49.
1956 c. 30.

(2) Section 287 of the Public Health Act 1936 and section 36 of the Food and Drugs (Scotland) Act 1956 (which relate to powers of entry) shall each have effect as if sections 1 and 3 of this Act were contained in that Act; and for the purposes of this Act references in the said section 36 to premises shall include any land.

(3) A local authority shall, in the case of any site operated by them as a refuse tip, within a period of not more than three days beginning with the date on which any waste to which section 3 of this Act applies was deposited on the tip, give notice to the river authority or the river purification board for the area in which the tip is situated specifying the following particulars with respect to the deposit—

(a) the particulars referred to in paragraphs (a), (b) and (c) of section 4(2) of this Act, and

(b) the premises from which the waste was removed with a view to its being deposited on the tip.

(4) Local authorities shall, in the case of waste to which section 3 of this Act applies, keep records relating to the descriptions and quantities of waste which are deposited from time to time in their area, and the places where such waste is deposited.

6. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

Offences by bodies corporate.

Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

7. In this Act—

Interpretation.

“land” includes land covered with water and also includes any part of the seashore whether above or below high water mark; and

“refuse tip” means any place for the deposit of refuse and waste materials;

and any reference to a river authority shall be construed as including a reference to the Conservators of the River Thames, the Lee Conservancy Catchment Board and the Isle of Wight River and Water Authority.

8.—(1) This Act may be cited as the Deposit of Poisonous Waste Act 1972.

Citation, commencement and extent.

(2) Sections 3, 4 and 5(3) and (4) of this Act shall come into force on a day appointed by the Secretary of State by order made by statutory instrument; but subject as aforesaid this Act shall come into force on the date of its passing.

(3) This Act does not extend to Northern Ireland.

c. 21 *Deposit of Poisonous Waste Act 1972*

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