



Control of Pollution Act 1974

1974 CHAPTER 40

PART I

WASTE ON LAND

Collection and disposal of controlled waste

16 Removal of waste deposited in breach of licensing provisions

- (1) If any controlled waste is deposited on any land in the area of a disposal authority or a collection authority in contravention of section 3(1) of this Act, the authority may serve a notice on the occupier of the land requiring him—
- (a) to remove the waste from the land within a period specified in the notice, which shall not be less than twenty-one days beginning with the date of service of the notice; or
 - (b) to take within such a period such steps as are so specified with a view to eliminating or reducing the consequences of the deposit of the waste,
- or requiring him both to remove the waste as mentioned in paragraph (a) of this subsection and to take such steps as are mentioned in paragraph (b) of this subsection within such a period as aforesaid.
- (2) A person served with a notice in pursuance of the preceding subsection may within the twenty-one days aforesaid appeal to a magistrates' court against the notice; and on any such appeal the court shall quash the notice if it is satisfied that—
- (a) the appellant neither deposited nor caused nor knowingly permitted the deposit of the waste on the land; or
 - (b) service of the notice on the appellant was not authorised by the preceding subsection; or
 - (c) there is a material defect in the notice;
- and in any other case shall either modify the notice or dismiss the appeal.

Status: This is the original version (as it was originally enacted).

- (3) Where a person appeals against a notice in pursuance of this section, the notice shall be of no effect pending the determination of the appeal; and where the court modifies the notice or dismisses the appeal it may extend the period specified in the notice.
- (4) If a person on whom a notice is served in pursuance of subsection (1) of this section fails to comply with the notice, then—
- (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 and a further fine not exceeding £50 for each day on which the failure continues after conviction for the offence and before the authority which served the notice has begun to exercise its powers in pursuance of the following paragraph ; and
 - (b) the said authority may do what that person was required by the notice to do and may recover from him any expenses reasonably incurred by the authority in doing it.
- (5) If it appears to such an authority as is mentioned in subsection (1) of this section that waste has been deposited as there mentioned and that—
- (a) in order to remove or prevent pollution of water or danger to public health it is necessary forthwith to remove the waste or to take other steps with a view to eliminating or reducing the consequences of the deposit of it or necessary forthwith to remove the waste and to take such other steps; or
 - (b) there is no occupier of the land in question; or
 - (c) the occupier of the land neither made nor knowingly permitted the deposit of the waste,
- the authority may remove the waste from the land or take such other steps as aforesaid or, as the case may require, may remove it and take such other steps.
- (6) Where an authority exercises in respect of any land a power conferred on it by the preceding subsection it shall be entitled to recover the cost of doing so and of disposing of any waste removed in the exercise of the power—
- (a) in a case falling within paragraph (a) of that subsection, from the occupier of the land unless he proves that he neither made nor caused nor knowingly permitted the deposit in question ;
 - (b) in any case, from any person who deposited or caused or knowingly permitted the deposit of any of the waste in question on the land,
- except such of the cost as the occupier or other person shows was incurred unnecessarily.
- (7) Any waste removed by an authority in pursuance of this section shall belong to the authority and may be dealt with accordingly.