

Mr Roger Irwin/Mr Donald Sterritt

Re: The Draft Waste (Amendment) (NI) Order 2006

Dear Sirs

I refer to my telephone conversation with yourselves regarding the above draft Order and generally welcome the amendments which would primarily improve EHS's enforcement powers.

In relation to Article 7 Clean-up costs, this additional sanction against persons convicted of an offence under Article 4(1) of the 1997 Order is also welcomed. I however feel that this Article requires some further clarification/consideration.

- By enabling the court to make an order requiring the offender to pay to either the Department or the occupier or the owner of the land any costs incurred by them in removing waste that has been illegally deposited etc .. is this indicating that the Department will be assuming a larger role in effecting clean-up into the future? [It should be noted that the Chief Environmental Health Officers Group, in its response to the policy proposals to introduce the amendments (7 November 2005), recommended that parity with GB is actively pursued to permit the Department to issue Article 28 notices.]

- The costs incurred relate to the removal of the waste which has been illegally deposited or disposed of in or on land, or in taking such steps to eliminate or reduce the consequences of the deposit or both. These actions are precisely those provided for in Article 28 which can currently be required only by the local district council. This being the case, and with the default powers under Article 28(7) should the district council not also be included under the draft Article(7) by extending Article 5c(1) to convictions under article 28? [Whilst Article 28(7) allows for the recovery of costs incurred by the district council the draft A7 provisions appear to provide for a more expeditious cost recovery route.]

Your consideration of the above points would be greatly appreciated.

Yours sincerely