

## **POLICY CONSULTATION – SUMMARY OF RESPONSES**

### **Background**

The Department consulted on proposals to amend the certain provisions in Waste and Contaminated Land (Northern Ireland) Order 1997 along the lines contained Part 5 of the Clean Neighbourhoods and Environment Act 2005 that received Royal Assent in April 2005.

While the majority of the measures consulted on maintain parity with England and Wales, the Department took the opportunity to amend some of the provisions in the 2005 Act to reflect the more serious situation here in Northern Ireland arising from the involvement of organised criminal gangs taking advantage of the increasing practice of illegal cross boundary transport and illegal management and deposit of waste.

### **Responses**

The consultation on the proposals was launched on 31 August 2005 and closed on 14 November 2005.

The consultation paper generated **17** substantive responses. The summary of responses has been grouped broadly in line with the proposals outlined in the consultation paper.

The majority of the responses were received from district councils or council representatives who have a particular interest in illegal waste disposal in terms of impact on amenity. While generally welcoming the proposals, their concerns were that they were focused too narrowly on the powers of the Department in dealing with waste management/disposal activities and did not provide a greater role for district councils to become involved in this important area.

## **GENERAL SUMMARY OF FEEDBACK/COMMENTS/VIEWS RECEIVED**

### **Unlawful deposit of waste – Defence of acting under one's employer's instructions**

Most respondents welcomed this proposal, though one felt that the proposal offered little protection to employees working for unscrupulous employers.

### **Penalties on conviction**

Most respondents welcomed this proposal, though two felt that the proposed new levels of fines and penalties did not go far enough. In addition, there was a strong desire expressed by those councils that responded to be more proactive in dealing with those who illegally manage and dispose of waste, attributed largely to the perception that the Department has not adequately exercised its existing powers to the full due to resource constraints.

### **Investigation and enforcement costs**

Most respondents welcomed this proposal, but felt that the decision of a court to award costs should be mandatory rather than discretionary.

### **Clean-up costs**

Most respondents welcomed this proposal, but felt that the decision of a court to award costs should be mandatory rather than discretionary.

### **Forfeiture of vehicles**

Most respondents welcomed this proposal. One felt that receipts from the sale of forfeited vehicles should be “ring fenced” for use in sustainable waste management projects.

### **Failure to furnish documentation: fixed penalty notices**

Most respondents welcomed this proposal.

### **Power to search and seize vehicles**

Most respondents welcomed this proposal.

### **Offences relating to waste receptacles: fixed penalty notices**

Most respondents welcomed this proposal.

### **Power of Department to require waste to be accepted, treated, disposed of or delivered**

Most respondents welcomed this proposal.

### **Power to require owner of land to remove waste**

Most respondents welcomed this proposal, but felt that this power should be either transferred to the Department in its entirety or the Department given a similar role to district councils in the exercise of this power. Also, respondents felt that the power should be extended to allow a notice to be served on those responsible for unlawful deposit of waste.

### **Unregistered transportation of waste - Defence of acting under one's employer's instructions**

Most respondents welcomed this proposal.

### **Registration requirements and conditions**

Most respondents welcomed this proposal.

### **Enforcement powers**

Most respondents welcomed this proposal, and asked that greater powers be given to councils in exercising their functions under the 1997 Order.

### **Failure to produce authority: fixed penalty notices**

Most respondents welcomed this proposal.

### **Supplementary enforcement powers**

Most respondents welcomed this proposal.

### **Making certain offences arrestable offences**

Most respondents welcomed this proposal.

### **Site waste management plans**

Most respondents welcomed this proposal, in principle.

## **THE WAY FORWARD**

The Department recognises that some of the comments received, such as a mandatory as opposed to discretionary role for courts in making an order or “ring-fencing” money generated from the sale of forfeited vehicles, are not, in the short term, within its power to grant. These issues will, however, be raised with the relevant authorities with a view to their possible inclusion in a future Waste Order. In addition, while responses were received from only a small percentage of the total number of district councils in Northern Ireland, the Department is of the view that there is merit in the suggestion that district councils should have a more proactive role in policing illegal waste activities. The Department proposes, therefore, to discuss this further with district councils to ascertain whether there is widespread support for this proposal and the extent to which this might be achieved. However, so as not to jeopardise the timing of the current Order, and in light of anticipated infraction proceedings by the European Union, any new powers for district councils in this respect will be included in a future Waste Order.