

**COMPLAINT
TO THE COMMISSION OF THE EUROPEAN COMMUNITIES
CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW**

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6. Environmental Campaigning organisation working throughout Northern Ireland as part of Friends of the Earth England, Wales and Northern Ireland.
7. The UK Government acting through the Department of the Environment (the DOE) in Northern Ireland. The DOE is currently under the control of the Parliamentary Under Secretary of State for Northern Ireland with responsibility for the Environment, a UK Government Minister.
8. The UK Government has failed fully to implement the Landfill Directive 1999/31/EC¹ ('the Directive') in Northern Ireland. Responsibility lies with the Parliamentary Under Secretary of State for Northern Ireland who is currently charged with control of the Department of the Environment, a department of the Northern Ireland Assembly.

The details of this complaint are as follows:-

- a. Article 13 of the Directive deals with closure and after-care procedures.
- b. Article 18 of the Directive requires Member States to transpose the Directive into domestic law not later than two years after its entry into force as stipulated in Article 19.
- c. The Directive came into force on 16 July 1999. According to Art. 18 the Directive should have been transposed into Northern Ireland law by 16 July 2001. The transposing regulations, the Landfill Regulations (Northern Ireland) 2003² (the 2003 Regulations), however, did not come into operation until 6 January 2004.

¹ O.J. L 182, 16/07/1999 p. 0001 - 0019

² S.R. 2003 No. 496

- d. Prior to the introduction of the 2003 Regulations, the relinquishment of waste licences was governed by the Pollution Control and Local Government (Northern Ireland) Order 1978³ (the 1978 Order). Under Article 10 (4) of the 1978 Order the holder of a waste disposal licence could cancel the licence by delivering it to the local authority which issued the licence.
 - e. In addition, Regulation 4 of the 2003 Regulations state, “these Regulations do not apply to (d) any landfill which finally ceased to accept waste for disposal before the relevant date.” The relevant date is the date on which the Regulations came into force; 6 January 2004. In other words, the 2003 Regulations specifically allowed landfill operators to ignore the strict closer requirements of the Directive between 16 July 2001 and 6 January 2004.
 - f. According to local authorities, a number of landfill sites closed in the period between 16 July 2001 and 6 January 2004. It is clear from the responses (enclosed) that the sites did not close in accordance with the Directive.
 - g. Furthermore, there appears to be considerable confusion as to who holds the relevant records. Local authorities refer inquiries to Environment and Heritage Service (EHS) of the DOE. EHS, in turn, claim to have few complete records from the period before the transfer of licensing powers from local authorities.
 - h. Given this confusion, and the very lax closure requirements under the 1978 Order, Friends of the Earth believes there have been more landfill closures than records suggest and that these closures were not in accordance with the Directive. These sites have slipped through the regulatory net and could present an environmental and health hazard for many years.
 - i. It is Friends of the Earth’s assertion that the DOE has been wilfully negligent in carrying out its responsibilities under the Directive by; (1) delaying the transposition of the Directive; and (2) including Regulation 4(b) in the 2003 Regulations.
9. The Council Directive 1999/31/EC on the landfill of waste.
 10. N/A
 11. N/A
 12. N/A
 13. Please see enclosures.
 14. Please see enclosures.

Item A is a response from EHS to two separate information requests. The numbered items in the letter aren’t strictly relevant but the un-numbered items

³ S.I. 1978 No. 1049 (NI 19)

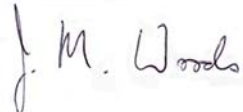
at the end of the letter are the response to letter C (below).

Items B.1 to B.22 are responses from local authorities to letter C (below).

Item C is an information request sent to EHS and local authorities.

Item D is the Landfill Regulations (Northern Ireland) 2003.

15. I authorise the Commission to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made.

16. Signed 
John Woods

Date 25/6/04