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## STATUTORY INSTRUMENTS

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# 1994 No. 1896 (N.I. 10)

## The Litter (Northern Ireland) Order 1994

- - - - - 19th July 1994

### Introductory

#### Title and commencement

1.—(1) This Order may be cited as the Litter (Northern Ireland) Order 1994.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint<sup>F1</sup>.

<b>F1</b> fully exercised by SR 1994/337
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#### Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F2</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the appropriate authority”, in relation to any Crown land, means—

- (a) in the case of land occupied as part of the Crown Estate, the Crown Estate Commissioners;
- (b) in the case of land occupied by or for the purposes of a government department, that government department;
- (c) in the case of land occupied or managed by a body on behalf of the Crown, that body;

<sup>F3</sup> ...

“Crown land” means land—

- (a) occupied by the Crown Estate Commissioners as part of the Crown Estate,
- (b) occupied by or for the purposes of a government department, or
- (c) occupied or managed by any body acting on behalf of the Crown;

“the Department” means the Department of the Environment;

“educational institution” means—

- (a) any higher education institution as defined in Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993<sup>F4</sup>;

- (b) any college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986<sup>F5</sup>;
- (c) any institution which provides further education as defined in<sup>F6</sup> Article 3 of the Further Education (Northern Ireland) Order 1997];
- (d) any school as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986;

“footway” has the same meaning as in Article 2(2) of the Roads (Northern Ireland) Order 1993<sup>F7</sup>;

“government department” includes a department of the government of the United Kingdom;

“litter”, subject to Article 7(4), means—

- (a) any refuse, filth, garbage or any other nauseous, offensive or unsightly waste; or
- (b) any waste which is likely to become nauseous, offensive or unsightly;

but not, subject to paragraph (7), animal droppings;

“regulations” means regulations made by the Department;

“relevant Crown land” means, subject to paragraph (3), Crown land which is open to the air and is land (but not a road) to which the public are entitled or permitted to have access with or without payment;

“relevant land of a district council” means, subject to paragraph (3), land which is open to the air and is land under the direct control of the council to which the public are entitled or permitted to have access with or without payment;

“relevant land of a designated educational institution” means, subject to paragraph (3), land which is open to the air and is land under the direct control of the governing body of any educational institution or educational institution of any description designated by the Department, by order;

<sup>F3</sup>  
...

“relevant land of a designated statutory undertaker” means, subject to paragraph (3), land under the direct control of any statutory undertaker designated by the Department, by order, being land to which the public are entitled or permitted to have access with or without payment or, in such cases as may be specified in the designation order, land in relation to which the public have no such right or permission;

“road” has the same meaning as in Article 2(2) of the Roads (Northern Ireland) Order 1993<sup>F8</sup> but includes a footway;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F9</sup>;

“statutory undertaker” means—

- (a) any body or person authorised by any statutory provision to carry on any railway, road transport, water transport, inland navigation, dock or harbour undertaking;
- (b) the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994<sup>F10</sup>) of any airport to which Article 25 of that Order applies;
- (c) any other body or person prescribed by regulations;

“waste” has the same meaning as in Article 36(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978<sup>F11</sup>.

(3) The Department may, by order, designate descriptions of land which are not to be treated as relevant Crown land or as relevant land of district councils, of designated statutory undertakers or designated educational institutions or of any description of such institutions.

(4) Subject to paragraph (5), every road is a “relevant road” and each district council is for the purposes of this Order, “responsible” for so much of any relevant road as lies within the district of the council.

(5) The Department may, by order, designate roads which are not to be treated as a relevant road.

(6) A place on land shall be treated as “open to the air” notwithstanding that it is covered if it is open to the air on at least one side.

(7) The Department may, by order, apply the provisions of this Order which apply to litter to any description of animal droppings in all or any circumstances as may be specified in the order subject to such modifications as appear to the Department to be necessary.

**F2** 1954 c. 33 (NI)

**F3** Words in art. 2(2) repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011](#) (c. 23), s. 78, [Sch. 4 Pt. 2](#); S.R. 2012/13, Sch. 2 (with art. 3)

**F4** 1993 NI 12

**F5** 1986 NI 3

**F6** 1997 NI 15

**F7** 1993 NI 15

**F8** 1993 NI 15

**F9** 1954 c. 33 (NI)

**F10** 1994 NI 1

**F11** 1978 NI 19

Penalty for leaving litter, etc.

### Offence of leaving litter

**3.—**(1) If any person throws down, drops or otherwise deposits in, into or from any place open to the air, and leaves, any thing whatsoever in such circumstances as to cause, or contribute to, or tend to lead to, the defacement by litter of any such place, he shall, subject to paragraph (2), be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that the depositing and leaving of the thing was—

- (a) authorised by law, or
- (b) done with the consent of the owner or other person or authority having control of the place in or into which that thing was deposited.

[<sup>F12</sup>(2A) A person may only give consent under paragraph (2) in relation to the depositing of litter in a lake, pond or watercourse if he is the owner, occupier or other person having control of—

- (a) all the land adjoining the lake, pond or watercourse; and
- (b) all the land through or into which water in that lake, pond or watercourse directly or indirectly discharges, otherwise than by means of a public sewer.

(2B) In paragraph (2A)—

“ watercourse ” has the same meaning as in Article 2(2) of the Drainage (Northern Ireland) Order 1973; and

“ public sewer ” has the same meaning as in Article 2(2) of the Water and Sewerage Services (Northern Ireland) Order 2006. ]

(3) A person who is guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) A district council, with a view to promoting the abatement of litter, may take such steps as the council thinks appropriate for making the effect of paragraph (3) known to the public in its district.

**F12** Art. 3(2A)(2B) inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), **ss. 14(2)**, 78; S.R. 2012/13, Sch. 2

### Offence of permitting dogs to foul

**F13** 4. ....

**F13** Art. 4 repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, **Sch. 4 Pt. 3**; S.R. 2012/13, Sch. 2 (with art. 3)

### Enforcement of Articles 3 and 4

5.—(1) Where an authorised person believes that an offence under Article 3 <sup>F14</sup>... has been committed, he may demand the name and address of any person whom he believes to be guilty of the offence.

(2) An authorised person (other than a constable in uniform) demanding the name and address of any other person under paragraph (1) shall, if so required, produce his credentials.

[<sup>F15</sup>(3) A person commits an offence if—

- (a) he fails to give his name and address in response to a demand under paragraph (1), or
- (b) he gives a false or inaccurate name or address in response to a demand under that paragraph.

(3A) A person guilty of an offence under paragraph (3) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

(4) Without prejudice to the right of any other person to institute proceedings for an offence under Article 3 <sup>F16</sup>..., a district council may institute proceedings for such an offence committed in its district.

(5) In this Article—

[<sup>F17</sup> “ authorised officer ” has the same meaning as in Article 6; ]

“authorised person”, in relation to an offence believed to have been committed in any place, means—

- (a) an authorised officer of the district council within whose district the place is situated;
- (b) an authorised officer of the district council by whom the place is controlled or managed;
- (c) the owner or occupier of the place (being private land) or any servant or agent of his duly authorised by him in writing; or
- (d) a constable;

“believes” means believes on reasonable grounds.

**F14** Words in art. 5(1) repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, **Sch. 4 Pt. 3**; S.R. 2012/13, Sch. 2 (with art. 3 )

**F15** S. 5(3)(3A) substituted (1.4.2012) for s. 5(3) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), **ss. 15(2)**, 78; S.R. 2012/13, Sch. 2 (with art. 3 )

- F16** Words in art. 5(4) repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, [Sch. 4 Pt. 3](#); S.R. 2012/13, Sch. 2 (with art. 3 )
- F17** Words in art. 5(5) inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), [ss. 15\(3\)](#), 78; S.R. 2012/13, Sch. 2 (with art. 3 )

### Fixed penalty notices

<sup>F18</sup>**6.**—(1) Where on any occasion an authorised officer of a district council finds a person who he believes has on that occasion committed an offence under Article 3 <sup>F19</sup>... in the district of that council, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person is given a notice under this Article in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of 14 days from the date of the notice; and
- (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(3) A notice under this Article shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

- (a) the period during which, under paragraph (2), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which the fixed penalty may be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(4) Where a letter is sent in accordance with paragraph (3) payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(5) Regulations may prescribe the form of notices under this Article.

<sup>F20</sup>[ (6) The fixed penalty payable in pursuance of a notice under this Article is payable to the district council whose authorised officer gave the notice.

(6A) The amount of a fixed penalty payable in pursuance of a notice under this Article—

- (a) is the amount specified by a district council in relation to its district, or
- (b) if no amount is so specified, is £75.

(7) A district council to which a fixed penalty is payable under this Article may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the council.]

(8) In any proceedings a certificate which—

- (a) purports to be signed by or on behalf of the clerk of the council; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

<sup>F18</sup>[(8A) The Department shall prepare and issue, and may from time to time revise, a code of practice for the purpose of providing guidance on the giving by authorised officers of notices under this Article.

(8B) An authorised officer must have regard to the code of practice as for the time being in force in determining whether to give a person a notice under this Article.