

These notes refer to the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c.23) which received Royal Assent on 4 May 2011

Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 - Vehicles

Section 2 – Exposing vehicles for sale on a road

This section makes it an offence for a person to park motor vehicles on a road or roads, where the vehicles are parked merely in order to be sold. There must be two or more vehicles within 500 metres of each other for the offence to be committed. A person will not be convicted of an offence if he can prove that he was not acting for the purposes of a business.

Section 3 – Repairing vehicles on a road

This section makes it an offence to carry out “restricted works” to vehicles on a road. “Restricted works” means:

- works for the repair, maintenance, servicing, improvement or dismantling of a motor vehicle or of any part of or accessory to a motor vehicle;
- works for the installation, replacement or renewal of any such part or accessory.

A person will not be convicted of an offence if he proves that the works were not carried out in the course of a business or for gain or reward. However, this defence is only available where the works did not give “reasonable cause for annoyance” to persons in the vicinity. A person will also not be convicted of an offence where the repairs arose from a breakdown or accident and were carried out promptly or were otherwise authorised.

Section 4 – Power to give fixed penalty notices

Subsection (1) of this section enables an employee of a district council who is authorised by the council to issue a fixed penalty notice for the offences of exposing vehicles for sale or repairing a vehicle on the road, offering the offender an opportunity to discharge any liability for the offence. Subsection (8) fixes the amount of the penalty at £100 which can be amended by order under subsection (9). Under subsection (10) the district council to which a fixed

penalty is payable may provide for treating it as having been paid if a lesser amount is paid before the end of such (shorter) period as it may specify.

Section 5 – Power to require name and address

Subsection (1) of this section provides an authorised officer of a district council with the power to require the name and address of an offender if the officer proposes to give him a penalty notice. Subsection (2) makes it an offence to fail to provide the information asked for or to give inaccurate information.

Section 6 – Use of fixed penalty receipts

This section enables district councils to use the receipts from fixed penalty notices issued pursuant to section 4 for the purposes of specified functions.

Section 7 – Offence of abandoning a vehicle: fixed penalty notices

This section amends the Pollution Control and Local Government (Northern Ireland) Order 1978 (the 1978 Order) (which makes it an offence to abandon a motor vehicle) by inserting new Articles 29A to 29C. New Article 29A of the Order gives an authorised officer of a district council the power to issue a fixed penalty notice in respect of an offence of abandoning a vehicle, offering the offender the opportunity to discharge any liability for the offence. The sum is set at £200 by paragraph (8) which can be amended by order as set out in paragraph (9). Under paragraph (10) the district council to which a fixed penalty is payable may provide for treating it as having been paid if a lesser amount is paid before the end of such (shorter) period as it may specify.

New Article 29B enables an authorised officer of a district council to require the name and address of the person to whom he proposes to issue a fixed penalty notice. A person commits an offence if he fails to provide the information required or gives false or inaccurate details.

New Article 29C enables district councils to use the receipts from these penalties for the purposes of specified functions.

Section 8 – Notice of removal of vehicle by district council

This section amends Article 30 of the 1978 Order by removing the requirement to serve a notice on the occupier of land where a vehicle that appears to be abandoned is on a 'road'. This enables vehicles to be removed immediately from any road to which the public has access.

Subsection (3) removes the requirement for a district council to affix a notice to an abandoned vehicle prior to removal where it is considered to be in such a condition that it ought to be destroyed.

Section 9 – Disposal of removed vehicle by district council

This section relates to the steps a district council must take before it can dispose of an abandoned vehicle. It amends Article 31 of the 1978 Order by removing

the requirement to wait for the expiration of a valid licence. This has the effect of allowing any vehicle that is only fit for destruction to be destroyed immediately. In other cases, if the owner either cannot be traced or fails to respond to a notice the vehicle can then be disposed of.

This section also amends Article 31 by allowing immediate disposal where neither a registration mark (plate) is shown nor current licence displayed. Without that information, it is considered unreasonable to expect the council to trace the owner. This section allows these vehicles to be disposed of immediately.

Section 10 - Guidance

This section obliges councils to have regard to guidance given by the Department when exercising their functions in relation to the removal and disposal of vehicles.

Section 11 – Notice of removal of vehicle

This section amends Articles 48 and 49 of the Road Traffic Regulation (Northern Ireland) Order 1997 (the 1997 Order) to remove the requirement to attach a notice on a vehicle that is considered in such a condition that it ought to be destroyed. The 1997 Order has similar provisions for dealing with abandoned vehicles as are contained in the 1978 Order but provides a power for constables and the Department for Regional Development to act, rather than the duty imposed on district councils under Article 30 of the 1978 Order.

Section 12 – Disposal of vehicle by police officer. Section 13 – Disposal of vehicle by Department

These sections amend Articles 51 and 52 of the 1997 Order to make various amendments that mirror the amendments made by section 9. It allows for the disposal of vehicles that do not display either a valid licence or a registration mark (plate) and also removes the requirement to wait for the expiration of a valid licence before the vehicle can be disposed of. There are also amendments to allow the period of time before a vehicle can be disposed of to be reduced by regulations.