



## 2011 CHAPTER 23

### **PART 3**

#### **LITTER**

##### *District council notices*

##### **Litter clearing notices**

**17.**—(1) Article 10 of the Litter (Northern Ireland) Order 1994 (NI 10) (litter control areas) shall cease to have effect.

(2) After Article 12 of that Order insert—

##### **“Litter clearing notices**

**12A.**—(1) A district council may in accordance with this Article serve a notice (a “litter clearing notice”) in relation to any land in its district which is open to the air.

(2) Before serving a litter clearing notice in relation to any land a district council must be satisfied that the land is defaced by litter so as to be detrimental to the amenity of the locality.

(3) A litter clearing notice is to require the person on whom it is served—

- (a) to clear the land of the litter; and
- (b) if the district council is satisfied that the land is likely to become defaced by litter again, to take reasonable steps to prevent it from becoming so defaced.

(4) A litter clearing notice shall be served on—

- (a) the occupier of the land to which it relates; or

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(b) if the land is not occupied, the owner.

(5) A litter clearing notice imposing a requirement under paragraph (3)(a) may specify—

(a) a period within which the requirement must be complied with;

(b) standards of compliance.

(6) A period specified under paragraph (5)(a) shall not be less than 28 days beginning with the day on which the notice is served.

(7) A district council shall, in discharging its functions under this Article, have regard to any guidance given to it by the Department.

(8) The form and content of a litter clearing notice shall be such as the Department may by order specify.

(9) Where a district council proposes to serve a litter clearing notice in respect of any land but is unable after reasonable enquiry to ascertain the name or proper address of the occupier of the land (or, if the land is unoccupied, the owner)—

(a) the council may post the notice on the land (and may enter any land to the extent reasonably necessary for that purpose), and

(b) the notice shall be treated as having been served upon the occupier (or, if the land is unoccupied, the owner) at the time the notice is posted.

(10) A litter clearing notice shall not be served in relation to land of any of the following descriptions—

(a) a road;

(b) land under the direct control of a district council;

(c) Crown land;

(d) relevant land of a designated statutory undertaker;

(e) relevant land of a designated educational institution.

### **Appeals against litter clearing notices**

**12B.**—(1) A person on whom a litter clearing notice is served under Article 12A may appeal against it to a court of summary jurisdiction in accordance with the provisions of this Article.

(2) An appeal under this Article shall be made within a period of 21 days beginning on the day on which the notice is served.

(3) The grounds on which an appeal under this Article may be made are that—

(a) there is a material defect or error in, or in connection with, the notice;

(b) the notice should have been served on another person;

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- (c) the land is not defaced by litter so as to be detrimental to the amenity of the locality;
- (d) the action required is unfair or unduly onerous.
- (4) A notice against which an appeal under this Article is made is of no effect pending the final determination or withdrawal of the appeal.
- (5) On the determination of an appeal under this Article, a court of summary jurisdiction must—
  - (a) quash the notice;
  - (b) modify the notice (including modifying it by extending the period specified in it); or
  - (c) dismiss the appeal.

#### **Failure to comply with litter clearing notice**

- 12C.**—(1) This Article applies where the person on whom a litter clearing notice is served under Article 12A fails without reasonable excuse to comply with any requirement imposed by the notice.
- (2) The person is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
  - (3) The district council which served the notice or any person authorised by it may enter the land to which the notice relates and clear it of litter.
  - (4) Where a district council exercises the power in paragraph (3), it may require the person on whom the notice was served to pay a reasonable charge in respect of the exercise of the power.
  - (5) A district council may for the purposes of paragraph (4) impose charges by reference to land of particular descriptions or categories (including categories determined by reference to surface area)."

#### **Commencement Information**

**II** [S. 17](#) in operation at 1.4.2012 by [S.R. 2012/13](#), [art. 2\(2\)](#), [Sch. 2](#)

#### **Street litter control notices**

- 18.**—(1) Article 13 of the Litter (Northern Ireland) Order 1994 (NI 10) (street litter control notices) shall be amended as follows.
- (2) After paragraph (3) insert—
    - “(3A) A vehicle or stall or other moveable structure which is used for one or more commercial or retail activities while parked or set at a particular place on or verging a street shall be treated for the purposes of this Article

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and Article 14 as if it were premises situated at that place having a frontage on that street in the place where it is parked or set.

(3B) In paragraph (3A), “vehicle” means any vehicle intended or adapted for use on roads.”.

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**Commencement Information**

**I2** [S. 18](#) in operation at 1.4.2012 by [S.R. 2012/13](#), art. 2(2), [Sch. 2](#)

**Street litter: supplementary provisions**

**19.**—(1) Article 14 of the Litter (Northern Ireland) Order 1994 (street litter: supplementary provisions) shall be amended as follows.

(2) In paragraph (4)(b) after the words “so specified” insert “ (including the standards to which any such thing must be done) ”.

(3) For paragraphs (8) and (9) substitute—

“(8) A person commits an offence if, without reasonable excuse, he fails to comply with a requirement imposed on him by a notice.

(9) A person guilty of an offence under paragraph (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

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**Commencement Information**

**I3** [S. 19](#) in operation at 1.4.2012 by [S.R. 2012/13](#), art. 2(2), [Sch. 2](#)

**Failure to comply with notice: fixed penalty notices**

**20** After Article 14 of the Litter (Northern Ireland) Order 1994 (NI 10) insert—

**“Fixed penalty notices relating to Articles 12C and 14**

**14A.**—(1) This Article applies where on any occasion it appears to an authorised officer of a district council that a person has committed an offence under Article 12C(2) or 14(8) in relation to a notice served by that council.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the district council.

(3) Paragraphs (2) to (5) of Article 6 (fixed penalty notices), apply in relation to notices given under this Article as they apply in relation to notices given under that Article.

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(4) The amount of a fixed penalty payable to a district council under this Article is—

- (a) the amount specified by the council in relation to its district; or
- (b) if no amount is so specified, £100.

(5) The 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.

(6) 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 the date specified in the certificate,

is evidence of the facts stated.

(7) In this Article—

“authorised officer”, in relation to a district council, means an officer of the council who is authorised in writing by the council for the purposes of giving notices under this Article;

“clerk of the council”, in relation to a district council, means the clerk appointed in accordance with section 41 of the Local Government Act (Northern Ireland) 1972.”.

#### Commencement Information

**I4** S. 20 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Cross Heading: District council notices.