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## STATUTORY INSTRUMENTS

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# 1978 No. 1049

## Pollution Control and Local Government (Northern Ireland) Order 1978

### PART VI

#### MISCELLANEOUS AND GENERAL

##### Miscellaneous functions of district councils

#### Defective premises

65.—(1) If it appears to a district council that—

- (a) any premises are in such a state (in this Article referred to as a “defective state”) as to be prejudicial to health or a nuisance, and
- (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by [<sup>F1</sup>Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011] ,

the district council may serve on the person on whom it would have been appropriate to serve an abatement notice under [<sup>F2</sup>section 65 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 ] (if the district council had proceeded under that section) a notice stating that the council intend to remedy the defective state and specifying the defects which it intends to remedy.

(2) Subject to paragraph (3), the district council may, after the expiration of nine days after service of a notice under paragraph (1), execute such works as may be necessary to remedy the defective state and may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.

(3) If, within seven days after service of a notice under paragraph (1) the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the district council shall take no action under the first-mentioned notice unless the person who served the counter-notice either—

- (a) fails within what seems to the district council a reasonable time to begin to execute works to remedy the said defects, or
- (b) having begun to execute such works fails to make such progress towards their completion as seems to the district council reasonable.

(4) In proceedings to recover expenses under this Article the court—

- (a) shall inquire whether the district council were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure prescribed by [<sup>F3</sup>Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011] , and
- (b) if the defendant proves that he served a counter-notice under paragraph (3), shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,

and if the court determines—

- (i) that the district council was not justified in either of the conclusions mentioned in sub-paragraph (a), or
- (ii) that there was no failure under sub-paragraph (b),

the district council shall not recover the expenses or any part of them.

(5) Subject to paragraph (4), in proceedings to recover expenses under this Article the court may inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just; so, however, that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

(6) A district council shall not serve a notice under this Article, or proceed with the execution of works in accordance with a notice so served, in respect of any building which is a listed building within the meaning of [F4 the Planning Act (Northern Ireland) 2011] .

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| <b>F1</b> | Words in art. 65(1) substituted (1.4.2012) by <a href="#">Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 3 para. 9(4)(a)(i); S.R. 2012/13, art. 2(2), Sch. 2</a>   |
| <b>F2</b> | Words in art. 65(1) substituted (1.4.2012) by <a href="#">Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 3 para. 9(4)(a)(ii); S.R. 2012/13, art. 2(2), Sch. 2</a>  |
| <b>F3</b> | Words in art. 65(4) substituted (1.4.2012) by <a href="#">Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 3 para. 9(4)(b); S.R. 2012/13, art. 2(2), Sch. 2</a>  |
| <b>F4</b> | Words in art. 65(6) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by <a href="#">Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), Sch. 6 para. 19 (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))</a> |

### Ruinous and dilapidated buildings and neglected sites

**66.**—(1) If it appears to a district council that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the district council may by notice require the owner thereof—

- (a) to execute such works of repair or restoration, or
- (b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,

as may be necessary in the interests of amenity.

(2) If it appears to a district council that rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and that by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood, the district council may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.

(3) Section 269 of the Public Health (Ireland) Act 1878 , section 7 of the Public Health Acts Amendment Act 1890 and section 7 of the Public Health Acts Amendment Act 1907 (appeals) shall apply in relation to any notice served under this Article.

(4) A notice served under paragraph (1) or (2) shall indicate both the nature of the works of repair or restoration and the works of demolition and removal of rubbish or material.

(5) Subject to the right of appeal under paragraph (3), if a person on whom a notice is served under paragraph (1) or (2) fails to comply with the notice then—

- (a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F5</sup> level 4 on the standard scale]; and
- (b) the district council which served the notice may do what that person was required by the notice to do and may recover from him any expenses reasonably incurred by the council in doing it.

(6) Where a person is convicted under paragraph (5) in respect of a failure to comply with a notice and the failure continues after conviction, he shall be guilty of a further offence under paragraph (5) and shall be liable on summary conviction, in addition to the fine specified in that paragraph, to a fine not exceeding<sup>F5</sup> level 3 on the standard scale] for every day subsequent to the day on which he is first convicted of an offence under that paragraph on which the failure continues and before the day on which the district council has begun to exercise its powers under paragraph (5)( b).

(7) This Article shall not apply to any advertisement as defined in <sup>F6</sup>section 250(1) of the Planning Act (Northern Ireland) 2011 ] .

**F5** 1984 NI 3

**F6** Words in art. 66(7) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 20](#) (with s. 211); [S.R. 2015/49, arts. 2, 3, Sch. 1](#) (with [Sch. 2](#) (as amended (16.3.2016) by [S.R. 2016/159, art. 2\)](#))

## Bye-laws as to pleasure fairs

67.—(1) A district council may make bye-laws—

- (a) for regulating the hours during which pleasure fairs may be open to the public;
- (b) for securing safe and adequate means of ingress to, and egress from, any pleasure fair;
- (c) for the prevention and suppression of nuisances, and the preservation of sanitary conditions, cleanliness, order and public safety, at any pleasure fair;
- (d) without prejudice to the generality of sub-paragraph ( c ), for the prevention of outbreaks of fire which might endanger—
  - (i) stands, stalls or other structures used or intended for use in connection with any pleasure fair; or
  - (ii) caravans used or intended for use as sleeping accommodation in connection with any pleasure fair;

and for the reduction of the risks of, and the spread of fire from, such an outbreak;

and the district council shall enforce bye-laws made by it under this Article.

(2) Bye-laws made under this Article may provide that a person contravening them shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F7</sup> level 4 on the standard scale] and, in the case of a continuing offence, a further fine not exceeding £5 for each day on which the offence continues after conviction.

(3) In this Article “pleasure fair” means any place<sup>F8</sup>, other than a place in respect of which an entertainments licence under Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 is for the time being in force,] which is for the time being used wholly or mainly for providing, whether or not in combination with any other entertainment, any entertainment to which this Article applies.

(4) The entertainments to which this Article applies are—

- (a) circuses;
- (b) exhibitions of human beings or of performing animals;
- (c) merry-go-rounds, roundabouts, swings, switchback railways;
- (d) coco-nut shies, hoop-las, shooting galleries, bowling alleys;
- (e) roller skating rinks;
- (f) dodgems or other mechanical riding or driving contrivances;
- (g) automatic or other machines intended for entertainment or amusement;
- (h) anything similar to any of the foregoing.

(5) The Department shall be the Department concerned as respects bye-laws under this Article and the Department shall not confirm any bye-law under this Article unless satisfied that all bodies which appear to be representative of the interests of those who carry on pleasure fairs and entertainments to which this Article applies and, in the case of a bye-law made under paragraph (1)(d), [<sup>F9</sup>the Northern Ireland Fire and Rescue Service Board] have been consulted on the matters dealt with by the bye-laws.

**F7** 1984 NI 3

**F8** 1985 NI 15

**F9** Words in art. 67(5) substituted (1.7.2006) by [Fire and Rescue Services \(Northern Ireland\) Order 2006 \(S.I. 2006/1254 \(N.I. 9\)\)](#), arts. 1(3), 63(1), **Sch. 3 para. 13** (with arts. 49, 62); S.R. 2006/257, **art. 2(d)**

### Bye-laws as to seaside pleasure boats

**68.**—(1) For the prevention of danger, obstruction or annoyance to persons bathing in the sea or using the seashore, a district council may make bye-laws—

- (a) regulating the speed of pleasure boats;
- (b) regulating the use of pleasure boats so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;
- (c) requiring the use of effectual silencers on pleasure boats propelled by internal combustion engines.

(2) Bye-laws made under this Article may provide that a person contravening them shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F10</sup> level 4 on the standard scale] and, in the case of a continuing offence, a further fine not exceeding £5 for each day on which the offence continues after conviction.

(3) The Department shall be the Department concerned as respects bye-laws made under this Article; so, however, that before confirming any such bye-laws the Department may amend the bye-laws so as to reduce the area in which the bye-laws have effect if it appears to the Department appropriate to do so with a view to ensuring that the byelaws do not have effect in any area for which another district council has made or may make bye-laws under this Article.

(4) Any bye-law may be made under this Article so as to have effect not only within the district of the district council but also, where any part of that district is bounded by or is to seaward of the high-water mark of mean tides, as respects any area of the sea which is outside that district within 1,000 metres to seaward of any place where that mark is within or on the boundary of that district; and any offence against any such bye-law made to have effect as mentioned in this paragraph may be inquired into and dealt with as if committed within the district of the district council.

**F10** 1984 NI 3

### Information as to ownership of property

**69.**—(1) A district council may, for the purpose of enabling it to perform any of its functions under the Public Health Acts (Northern Ireland) 1878 to 1967 [<sup>F11</sup>or Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 ], serve on the occupier of any land, and any person who either directly or indirectly receives rent in respect of any land, a notice requiring him to state in writing the nature of his own estate in the land and the name and address of any other person known to him to have an estate in the land.

(2) Any person who—

- (a) fails without reasonable excuse to comply with the requirements of a notice served on him under this Article; or
- (b) in stating any information in compliance with such a notice, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F12</sup> level 3 on the standard scale].

**F11** Words in art. 69(1) inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 3 para. 9\(5\)](#); S.R. 2012/13, art. 2(2), Sch. 2

**F12** [1984 NI 3](#)

### Notices prohibiting recurrence of nuisances, etc.

<sup>F13</sup>**70.** . . . . .

**F13** Art. 70 repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 4 Pt. 5](#); S.R. 2012/13, art. 2(2), Sch. 2

### Reduction of numbers of pigeons and other birds in built-up areas

**71.**—(1) A district council may take any steps for the purpose of abating or mitigating any nuisance, annoyance or damage caused by the congregation in any built-up area of feral pigeons or of starlings or house sparrows.

(2) Nothing in this Article shall authorise a district council to do anything in contravention of the<sup>F14</sup> Wildlife (Northern Ireland) Order 1985].

**F14** [1985 NI 2](#)

### Power of district councils to obtain information

**72.**—(1) Subject to paragraph (2), a district council may serve on any person a notice requiring him to furnish to the council, within a period or at times specified in the notice and in a form so specified, any information so specified which the council reasonably considers that it needs for the purposes of any function conferred on the council by this Order.

(2) Provision may be made by regulations for restricting the information which may be required under paragraph (1) and for determining the form in which the information is to be so required.

(3) A person who—

- (a) fails without reasonable excuse to comply with the requirements of a notice served on him under this Article; or
- (b) in furnishing any information in compliance with such a notice, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F15</sup> level 5 on the standard scale].

**F15** 1984 NI 3

### **Acquisition of land otherwise than by agreement**

**73.** A district council may acquire land otherwise than by agreement for the purposes of the Public Health Acts (Northern Ireland) 1878 to 1967, ...<sup>F16</sup> and this Order.

**F16** 1981 NI 14

### **Power of entry and inspection, etc.**

**74.—**(1) The power conferred on a person authorised in writing by a district council by section 98 of the Local Government Act (Northern Ireland) 1972 to enter any land includes power—

- (a) to enter any land for the purpose of—
  - (i) determining whether any provision of this Order or of any regulation made under this Order is being complied with;
  - (ii) carrying out such inspections, measurements and tests on the land or of any articles on it as he considers appropriate for the purpose mentioned in head (i);
- (b) to enter any vessel for any purpose for which he may enter any land;
- (c) to take and carry away for examination samples of any articles on the land or vessel.

(2) Where any motor vehicle or thing which is authorised by this Order to be removed from any land is damaged in the exercise of a right of entry conferred under section 98 of that Act of 1972 or in the doing of any thing for the purpose of which such right of entry has been so conferred, subsection (5) of that section shall not apply.

*Para.(3) inserts s.98(1)(c) in 1972 c.9 (NI)*

*Art. 75 rep. by 1985 NI 15*

**Changes to legislation:**

There are currently no known outstanding effects for the Pollution Control and Local Government (Northern Ireland) Order 1978, Miscellaneous functions of district councils.