

1978 No. 1049 (N.I. 19)

NORTHERN IRELAND

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

*Laid before Parliament in draft*

*Made*

*25th July 1978*

*Coming into operation in accordance with Article 1 (2)*



*BELFAST: HMSO*

*Reprinted 1992*



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STATUTORY INSTRUMENTS

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At the Court at Buckingham Palace, the 25th day of July 1978

Present,

The Queen’s Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I  
INTRODUCTORY

*Title and commencement*

1.—(1) This Order may be cited as the Pollution Control and Local Government (Northern Ireland) Order 1978.

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

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) 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 Alkali Act” means the Alkali, &c. Works Regulation Act 1906 (c);

“the Department” means the Department of the Environment;

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

“mine” has the same meaning as in the Mines Act (Northern Ireland) 1969 (d);

“modify” means making additions, omissions, amendments, applications, extensions, restrictions and substitutions;

“notice” means notice in writing;

“orders”, except orders under Articles 1 (2), 39, 43, 45 (6) and 83, means orders made by the Department;

“owner”, means the person for the time being receiving the rackrent of the land in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the land were let at a rackrent;

“prescribed” means prescribed by regulations;

“private dwelling” means—

(a) a hereditament used wholly for the purposes of a private dwelling as determined in accordance with Schedule 5 of the Rates (Northern Ireland) Order 1977 (e); and

(b) a caravan as defined in section 25 (1) of the Caravans Act (Northern Ireland) 1963 (f);

“quarry” has the same meaning as in the Quarries Act (Northern Ireland) 1927 (g);

“regulations” means regulations made by the Department;

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

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(a) 1974 c. 28.      (b) 1954 c. 33 (N.I.).      (c) 1906 c. 14.      (d) 1969 c. 6 (N.I.).  
(e) S.I. 1977/2157 (N.I. 28).      (f) 1963 c. 17 (N.I.).      (g) 1927 c. 19 (N.I.).

“street” has the same meaning as in the Public Health (Ireland) Act 1878 (a);  
“vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968 (b).

(2) Except so far as this Order expressly provides otherwise and subject to the provisions of section 20 (1) of the Interpretation Act (Northern Ireland) 1954 (which relates to offences under two or more laws) nothing in this Order—

- (a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Order or an instrument made under this Order;
- (b) affects any restriction imposed by or under any other statutory provision; or
- (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Order.

(3) In so far as any interest in Crown land is not a Crown interest, this Order shall apply to the land as if it were not Crown land; and in this paragraph—

“Crown land” means land in which there is a Crown interest;

“Crown interest” means an interest—

- (a) which belongs to Her Majesty in right of the Crown or belongs to a government department; or
- (b) which is held in trust for Her Majesty for the purposes of a government department.

## PART II

### WASTE ON LAND

#### *Waste disposal arrangements*

##### *Arrangements for disposing of controlled waste*

3. It shall be the duty of each district council to ensure that the arrangements made by the council and other persons for the disposal of waste are adequate for the purpose of disposing of all controlled waste which becomes situated in its district after this Article comes into force and all controlled waste which is likely to become so situated.

#### *Waste disposal plans*

##### *Preparation and revision of waste disposal plans*

4.—(1) Each district council shall—

- (a) carry out an investigation with a view to deciding what arrangements are needed for the purpose of disposing of controlled waste which is situated in its district and of controlled waste which is likely to be so situated;
- (b) decide what arrangements are in the opinion of the council needed for that purpose;
- (c) prepare a statement of the arrangements made and proposed to be made by the council and other persons for disposing of such waste during a period specified in the statement (in this Article referred to as “the plan”);
- (d) carry out further investigations with a view to deciding what changes in the plan are needed for that purpose; and
- (e) make any modification of the plan which the council thinks appropriate in consequence of any further investigation under sub-paragraph (d);

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(a) 1878 c. 52.

(b) 1968 c. 59.



and in considering any arrangements or modification for the purposes of sub-paragraph (c) or (e) the council shall have regard to the effect which the arrangements or modification would be likely to have on the amenities of any relevant locality and to the likely cost to the council of the arrangements or modification.

(2) A district council shall include in the plan information as to—

- (a) the kinds and quantities of controlled waste which the council expects will be situated in its district during the period specified in the plan;
- (b) the kinds and quantities of controlled waste which the council expects to be brought for disposal into or taken for disposal out of its district during that period;
- (c) the kinds and quantities of controlled waste which the council expects to dispose of itself during that period;
- (d) the kinds and quantities of controlled waste which the council expects to be disposed of in its district during that period by persons other than the council;
- (e) the methods by which in the opinion of the council controlled waste in its district should be disposed of, either by reclaiming substances from it or otherwise, during that period and the priorities which in its opinion should be accorded during that period to the provision of different methods of disposal;
- (f) the sites and equipment which the council and other persons are providing and during that period proposes itself to provide and expects other persons to provide for disposing of controlled waste; and
- (g) the estimated costs of the methods of disposal mentioned in the plan;

but provision may be made by regulations for modifying sub-paragraph (a) to (g) and for requiring a district council to take prescribed factors into account in preparing the plan and any modification of it.

(3) A district council shall—

(a) in preparing the plan and any modification of it, consult—

- (i) the Department; and
- (ii) in a case where provisions of the plan or modification relate to the taking of waste for disposal into the district of another district council, that other district council, and
- (iii) in any case, such persons as the district council considers it appropriate to consult from among persons who in the opinion of the council are or are likely to be, or are representative of persons who are or are likely to be, engaged by way of trade or business in the disposal of controlled waste situated in the district of the council and such other persons as are prescribed; and

(b) before finally determining the content of the plan or modification (excluding a modification which in the opinion of the district council is such that no person will be prejudiced if the following provisions of this sub-paragraph are disregarded with respect to it), take such steps as in the opinion of the council will—

- (i) give adequate publicity in its district to the plan or modification, and
- (ii) provide members of the public with opportunities of making representations to the council about it,

and consider any representations made under head (ii) and make any change in the plan or modification which the council considers appropriate in consequence of the representations.

(4) Without prejudice to the generality of paragraph (2) a district council, in preparing the plan and any modification of it (excluding a modification which the district council considers irrelevant for the purposes of this paragraph), shall consider, in consultation with such persons as the council considers appropriate and as agree to participate in the consultations,—

(a) what arrangements can reasonably be expected to be made for the purpose of reclaiming substances from controlled waste which is situated in the district of the council; and

(b) what provisions should be included in the plan for that purpose.

(5) A district council shall not finally determine the content of the plan or a modification of it in a case falling within paragraph (3) (a) (ii) except with the consent of the other district council or, if that other council withholds its consent, with the consent of the Department.

(6) When a district council has finally determined the content of the plan or a modification of it in accordance with the provisions of this Article the council shall—

(a) take such steps as in the opinion of the council will give adequate publicity in its district to the plan or modification; and

(b) send to the Department a copy of the plan or, as the case may be, particulars of the modification.

(7) The Department may give to any district council a direction as to the time by which the council is to perform any duty specified in the direction which is imposed on the council by this Article; and the council shall comply with the direction.

#### *Licensing of disposal of controlled waste*

#### *Prohibition of unlicensed disposal of waste*

5.—(1) Except in prescribed cases, a person shall not—

(a) deposit controlled waste on any land or cause or knowingly permit controlled waste to be deposited on any land; or

(b) use any plant or equipment, or cause or knowingly permit any plant or equipment to be used, for the purpose of disposing of controlled waste or of dealing in a prescribed manner with controlled waste,

unless the land on which the waste is deposited or, as the case may be, which forms the site of the plant or equipment is occupied by the holder of a licence issued under Article 7 (in this Part referred to as a “disposal licence”) which authorises the deposit or use in question and the deposit or use is in accordance with the conditions, if any, specified in the licence.

(2) Except in a case falling within paragraph (3), a person who contravenes any of the provisions of paragraph (1) shall, subject to paragraph (4), be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding £1,000; or

(b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

(3) A person who contravenes paragraph (1) (a) in a case where—

(a) the waste in question is of a kind which is poisonous, noxious or polluting; and

(b) its presence on the land is likely to give rise to an environmental hazard; and

(c) it is deposited on the land in such circumstances or for such a period that whoever deposited it there may reasonably be assumed to have

abandoned it there or to have brought it there for the purpose of its being disposed of (whether by himself or others) as waste;  
shall, subject to paragraph (4), be guilty of an offence and shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or to both; or

(b) on conviction on indictment to imprisonment for a term not exceeding five years or to a fine or to both.

(4) It shall be a defence for a person charged with an offence under this Article to prove—

(a) that he—

(i) took care to inform himself, from persons who were in a position to provide the information, as to whether the deposit or use to which the charge relates would be in contravention of paragraph (1), and

(ii) did not know and had no reason to suppose that the information given to him was false or misleading and that the deposit or use might be in contravention of that paragraph; or

(b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the deposit or use was in contravention of paragraph (1); or

(c) in the case of an offence of making, causing or permitting a deposit or use otherwise than in accordance with conditions specified in a disposal licence, that he took all such steps as were reasonably open to him to ensure that the conditions were complied with; or

(d) that the acts specified in the charge were done in an emergency in order to avoid danger to the public and that, as soon as reasonably practicable after they were done, particulars of them were furnished to the district council in whose district the acts were done.

*Provisions supplementary to Article 5*

6.—(1) Where activities for which a disposal licence is required apart from this paragraph have been carried on on any land during the period of six months ending with the date when Article 5 (1) comes into operation, nothing in that paragraph shall apply to the carrying on of those activities on the land during the period of one year beginning with that date and, where at the end of that period an appeal is pending under Article 12 against a rejection of an application for a disposal licence in respect of those activities on the land or against a decision to issue such a licence which specifies conditions, until the appeal is determined.

(2) Nothing in Article 5 (1) applies to household waste from a private dwelling which is deposited, disposed of or dealt with within the curtilage of the dwelling by or with the permission of the occupier of the dwelling.

(3) In prescribing excepted cases under Article 5 (1), the Department shall have regard in particular to the expediency of excluding from the controls imposed by virtue of that paragraph—

(a) any deposits which are small enough to be properly excluded from those controls or are of such a temporary nature that they may be so excluded;

(b) any uses of plant or equipment which are innocuous enough to be so excluded;

(c) cases for which adequate controls are provided by a statutory provision other than that paragraph;

and, without prejudice to the generality of Article 86 (2), prescribe different excepted cases for different areas.

(4) References to land in Article 5 and this Article include references to water which covers any land above low-water mark of ordinary spring tides.

(5) For the purposes of paragraph (3) of Article 5—

(a) the presence of waste on land gives rise to an environmental hazard if the waste has been deposited in such a manner or in such a quantity (whether that quantity by itself or cumulatively with other deposits of the same or different substances) as to subject persons or animals to a material risk of death, injury or impairment of health or as to threaten pollution (whether on the surface or underground) of any water supply; and

(b) the fact that waste is deposited in containers shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.

(6) In the case of any deposit of waste, the degree of risk relevant for the purposes of paragraph (5) shall be assessed with particular regard—

(a) to the measures, if any, taken by the person depositing the waste, or by the owner or occupier of the land, or by others, for minimising the risk; and

(b) to the likelihood of the waste, or any container in which it is deposited, being tampered with by children or others.

#### *Licences to dispose of waste*

7.—(1) An application for a disposal licence in respect of any land in the district of a district council must be made in writing to the council and include such information as is prescribed.

(2) A disposal licence shall not be issued for a use of land, plant or equipment for which planning permission under the Planning (Northern Ireland) Order 1972 (a) or consent under the Water Act (Northern Ireland) 1972 (b) is required unless such permission is in force or such consent has been granted; but provision may be made by regulations for an application for a disposal licence to be considered while an application for any relevant planning permission or consent is pending and for any proceedings connected with any application to be conducted concurrently with any proceedings connected with any other application.

(3) Where a district council receives an application for a disposal licence for a use of land, plant or equipment for which such planning permission is in force or such consent has been granted, the council shall not reject the application unless the council is satisfied that its rejection is necessary for the purpose of preventing danger to public health.

(4) A person who, in an application for a disposal licence, 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—

(a) on summary conviction to a fine not exceeding £1,000; or

(b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

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(a) S.I. 1972/1634 (N.I. 17).

(b) 1972 c. 5 (N.I.).

*Provisions supplementary to Article 7*

8.—(1) Provision may be made by regulations as to the conditions which are or are not to be specified in a disposal licence, and as to the conditions specified in a disposal licence which shall be disregarded for the purposes of Article 5 (1).

(2) Subject to regulations made under paragraph (1), a disposal licence may include such conditions as the district council which issues it sees fit to specify in the licence; and without prejudice to the generality of the preceding provisions, any such conditions may relate to—

- (a) the duration of the licence;
- (b) the supervision by the holder of the licence of activities to which the licence relates;
- (c) the kinds and quantities of waste which may be dealt with under the licence or which may be so dealt with during a specified period, the methods of dealing with them and the recording of information relating to them;
- (d) the precautions to be taken on any land to which the licence relates;
- (e) the steps to be taken with a view to facilitating compliance with any conditions of such planning permission or consent as is mentioned in Article 7 (2);
- (f) the hours during which waste may be dealt with under the licence; and
- (g) the works to be carried out, in connection with the land, plant or equipment to which the licence relates, before the activities authorised by the licence are begun or while they are continuing;

and it is hereby declared that a condition may require the carrying out of works or the doing of any other thing which the district council considers appropriate in connection with the licence notwithstanding that the licence holder is not entitled as of right to carry out the works or do the thing.

(3) The holder of a disposal licence who without reasonable excuse contravenes a condition of the licence which under regulations is to be disregarded for the purposes mentioned in paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400; but no proceedings for such an offence shall be brought except by or with the consent of the Director of Public Prosecutions for Northern Ireland or by the district council which issued the licence.

(4) Each district council shall—

- (a) maintain a register containing prescribed particulars of all disposal licences issued by the council which are for the time being in force; and
- (b) secure that the register is open to inspection at its principal office by members of the public free of charge at all reasonable hours; and
- (c) afford members of the public reasonable facilities for obtaining from the council, on payment of reasonable charges, copies of entries in the register.

(5) If within the period of two months beginning with the date on which a district council receives an application duly made to it for a disposal licence, or within such longer period as the council and the applicant may at any time agree in writing, the district council has neither issued a licence in consequence of the application nor given notice to the applicant that the council has rejected the application, the district council shall be deemed to have rejected the application.

(6) References to land in Article 7 and this Article include such water as is mentioned in Article 6 (4).

*Variation of conditions and revocation of licences*

9.—(1) While a disposal licence issued by a district council is in force, then—

(a) subject to any regulations, the council may—

(i) on its own initiative, serve a notice on the holder of the licence modifying the conditions specified in the licence to any extent which, in the opinion of the council, is desirable and is unlikely to require unreasonable expenditure by the licence holder, and

(ii) on the application of the licence holder, serve a notice on him modifying the said conditions to the extent requested in the application; and

(b) the council shall serve a notice on the licence holder modifying the conditions specified in the licence—

(i) subject to paragraph (3), to the extent which in the opinion of the council is required for the purpose mentioned in Article 11 (1) (a), and

(ii) to the extent required by any regulations.

(2) Article 7 (4) shall apply to an application under paragraph (1) (a) (ii) as it applies to an application for a disposal licence.

(3) Where a disposal licence issued by a district council is in force and it appears to the council—

(a) that the continuation of activities to which the licence relates would cause danger to public health or would be so seriously detrimental to the amenities of the locality affected by the activities that the continuation of them ought not to be permitted; and

(b) that the danger or detriment cannot be avoided by modifying the conditions specified in the licence,

the council shall, by a notice served on the holder of the licence, revoke the licence.

(4) A notice served under this Article shall state the time at which the modification or revocation in question is to take effect.

*Transfer and relinquishment of licences*

10.—(1) The holder of a disposal licence may, after giving notice to the district council which issued the licence that he proposes to transfer it on a day specified in the notice to a person whose name and address are so specified, transfer the licence to that person; but a licence in respect of which such a notice is given shall cease to have effect on the expiration of the period of ten weeks beginning with the date on which the council receives the notice if during the period of eight weeks beginning with that date the council gives notice to the transferee that it declines to accept him as the holder of the licence.

(2) If by operation of law the right of the holder of a disposal licence to occupy the relevant land is transferred to some other person, that person shall be deemed to be the holder of the licence during the period of ten weeks beginning with the date of the transfer.

(3) Except as provided by paragraphs (1) and (2), references in this Part to the holder of a disposal licence are references to the person to whom the licence was issued.

(4) The holder of a disposal licence may cancel the licence by delivering it to the district council which issued it and giving notice to the council that he no longer requires the licence.

*Supervision of licensed activities*

11.—(1) While a disposal licence is in force the district council which issued the licence shall take the steps needed—

- (a) to ensure that the activities to which the licence relates do not cause danger to public health or become seriously detrimental to the amenities of the locality affected by the activities; and
- (b) to ensure that the conditions specified in the licence are complied with.

(2) For the purpose of performing the duty which is imposed on a district council by paragraph (1) in connection with a licence, any officer of the council authorised in writing in that behalf by the council may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the relevant land and on any plant or equipment to which the licence relates.

(3) Where a district council incurs any expenditure under paragraph (2), the council may recover the amount of the expenditure from the holder of the disposal licence in question, or if the licence has been revoked or cancelled from the last holder of it, except where the holder or last holder of the licence shows that there was no emergency requiring any work or except such of the expenditure as he shows was unnecessary.

(4) Where it appears to a district council that a condition specified in a disposal licence issued by the council is not being complied with, then, without prejudice to any proceedings under Article 5 or 8 (3) in consequence of any failure to comply with the condition, the council may—

- (a) serve on the licence holder a notice requiring him to comply with the condition before a time specified in the notice; and
- (b) if in the opinion of the council the licence holder has not complied with the condition by that time, serve on him a further notice revoking the licence at a time specified in the further notice.

*Appeals to Department from decisions with respect to licences*

12.—(1) Where—

- (a) an application for a disposal licence or a modification of a disposal licence is rejected; or
- (b) a disposal licence which specifies conditions is issued; or
- (c) the conditions specified in a disposal licence are modified; or
- (d) a disposal licence is revoked,

the applicant for the licence or, as the case may be, the holder or last holder of it may, in accordance with regulations, appeal from the decision in question to the Department; and where on such an appeal the Department determines that the decision is to be altered the district council concerned shall give effect to the determination.

(2) While an appeal under paragraph (1) is pending in a case falling within sub-paragraph (c) or (d), the decision in question shall, subject to paragraph (3), be ineffective; and if the appeal is dismissed or withdrawn the decision shall be effective again from the end of the day on which the appeal is dismissed or withdrawn.

(3) Paragraph (2) shall not apply to a decision of a district council as respects which the notice relating to the decision which was served on the holder of the relevant licence under Article 9 or 11 (4) (b) includes a statement that in the opinion of the district council it is necessary for the purpose of preventing danger to public health that paragraph (2) should not apply to the decision; but if on the application of the holder or former holder of the relevant licence the Department determines that the council acted unreasonably in including such a statement in the said notice, then—

(a) if the appeal in question is still pending at the end of the day on which the determination is made, paragraph (2) shall apply to the decision from the end of that day; and

(b) the holder or former holder of the licence shall be entitled to recover compensation from the council in respect of any loss suffered by him in consequence of the statement;

and any dispute as to a person's entitlement to compensation under sub-paragraph (b) or as to the amount of the compensation shall be determined by arbitration.

*Special provisions for land occupied by district councils*

13.—(1) Nothing in Article 5 (1) shall apply to—

(a) the deposit of controlled waste on land in the district of a district council which is occupied by the council; or

(b) the use on land so occupied of any plant or equipment for the purpose of disposing of controlled waste or of dealing with controlled waste in a manner prescribed,

if the deposit is made or the plant or equipment is used by the council or is made or used with the consent of the council and in accordance with the conditions, if any, to which the consent is subject (other than a condition as to which it is provided by regulations that the condition shall be disregarded for the purposes of this paragraph).

(2) If any land occupied by a district council is used by the council as a site on which to deposit or permit other persons to deposit controlled waste or on which to use or permit other persons to use any plant or equipment for that purpose, the council shall ensure that the land is used in accordance with conditions which are—

(a) calculated to prevent its use from causing danger to public health and serious detriment to the amenities of the locality in which the land is situated; and

(b) specified in a resolution passed by the council in accordance with the provisions of this Article.

(3) Where a district council proposes that any land which the council occupies or intends to occupy should be used by the council as mentioned in paragraph (2) the district council, before it gives effect to the proposal, shall—

(a) prepare a statement of the conditions which the council intends to specify in a resolution to be passed by the council under sub-paragraph (d);

(b) include in or, as the case may be, exclude from the statement any condition which under Article 8 (1) is required to be included in or excluded from a disposal licence;

(c) refer the proposal and the statement to the Department;



- (d) pass a resolution specifying the conditions in accordance with which the land in question is to be used by the district council as mentioned in paragraph (2).
- (4) A district council by which a resolution has been passed under paragraph (3) (d)—
- (a) may vary or rescind the resolution by a subsequent resolution of the council; and
- (b) shall so vary the resolution when it is necessary to do so in order to secure that the conditions specified in the resolution include or, as the case may be, exclude a condition which under Article 8 (1) is required to be included in or excluded from a disposal licence.
- (5) Sub-paragraphs (a) to (d) of paragraph (3) shall with the necessary modifications apply to a proposal to pass a resolution under paragraph (4) and to such a resolution as they apply to a proposal as is mentioned in paragraph (3) and to a resolution under paragraph (d) of that paragraph, except that—
- (a) those provisions shall not apply to, or to a proposal to pass, a resolution which only rescinds a previous resolution; and
- (b) the district council may postpone the reference under paragraph (3) so far as the council considers that by reason of an emergency it is appropriate to do so; and
- (c) the district council may disregard any other district council for the purposes of paragraph (4) in relation to a resolution which, in the opinion of the council, will not affect that other district council.
- (6) If while a resolution is in force under this Article it appears to the district council which passed the resolution—
- (a) that the continuation of activities to which the resolution relates would cause danger to public health or would be so seriously detrimental to the amenities of the locality affected by the activities that the activities ought not to continue; and
- (b) that the danger or detriment cannot be avoided by modifying the conditions relating to the carrying on of the activities,
- the district council shall discontinue the activities and rescind the resolution.
- (7) The Department may direct a district council to discontinue activities to which a resolution under this Article relates; and the council shall comply with a direction given to it under this paragraph.
- (8) While a resolution passed by a district council under paragraph (3) or (5) is in force the council shall secure that particulars of the resolution are included in the register maintained by the council under Article 8 (4) (a).
- (9) References to land in this Article include such water as is mentioned in Article 6 (4).

*Collection and removal of controlled waste*

*Collection of waste*

**14.—(1)** Each district council shall—

- (a) subject to paragraph (3), arrange for the collection of all household waste in its area except waste—
- (i) which is situated at a place which in the opinion of the council is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and

- (ii) as to which the council is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste; and
  - (b) if requested by the occupier of premises in its district to collect any commercial waste from the premises, arrange for the collection of the waste.
- (2) Each district council may, if requested by the occupier of premises in its district to collect any industrial waste from the premises, arrange for the collection of the waste.
- (3) No charge shall be made for the collection of household waste under paragraph (1) except in prescribed cases; and in any of those cases—
- (a) the duty to arrange for the collection of the household waste which is imposed on the district council by paragraph (1) (a) shall not arise until a person who controls the waste requests the council to collect it; and
  - (b) the district council may recover a reasonable charge for the collection of the waste from the person who made the request in respect of it under sub-paragraph (a).
- (4) A person at whose request waste other than household waste is collected under this Article shall be liable to pay a reasonable charge for the collection and disposal of the waste to the district council which arranged for its collection; and the council shall recover the charge unless in the case of a charge in respect of commercial waste the council considers it inappropriate to do so.
- (5) A district council may—
- (a) construct, lay and maintain, within or outside its district, pipes and associated works for the purpose of collecting waste under this Article;
  - (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the council under sub-paragraph (a).
- (6) Articles 13 to 16 of the Water and Sewerage Services (Northern Ireland) Order 1973 (a) (which relate to the execution of works etc.) shall apply in relation to pipes and associated works provided or to be provided under paragraph (5) (a) as those Articles apply in relation to works for the purpose of that Order but as if for any reference to the Department there were substituted a reference to the district council in question.
- (7) A district council may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with—
- (a) household waste before it is collected under arrangements made by the council under paragraph (1) (a); or
  - (b) commercial or industrial waste before it is collected under arrangements made by the council under paragraph (1) (b) or (2).
- (8) Anything collected under arrangements made by a district council under this Article shall belong to the council and may be dealt with accordingly.
- (9) References to waste in this Article include waste on premises occupied by the Crown; but a district council shall not under this paragraph exercise, in relation to such premises or waste on such premises, any power conferred on the council by section 98 of the Local Government Act (Northern Ireland) 1972 (b).

(a) S.I. 1973/70 (N.I. 2).

(b) 1972 c. 9 (N.I.).

*Dustbins, etc.*

15.—(1) Where a district council has a duty under Article 14 (1) (a) to arrange for the collection of household waste from any premises, then, subject to any regulations made under paragraph (9), the council may, by a notice served on the occupier of the premises, require him to place the waste for collection in receptacles which are of a kind and number reasonably specified in the notice; and a person who fails to comply with such a requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(2) A notice served by a district council under paragraph (1) may provide for the receptacles in question to be provided by the council free of charge or—

- (a) if the recipient of the notice agrees, by the council on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the council; or
- (b) by the recipient of the notice if he does not enter into an agreement under sub-paragraph (a) within a period specified in the notice or the notice does not propose such an agreement.

(3) Where the recipient is required by a notice under paragraph (1) to provide any receptacles he may within the period of twenty-one days beginning with the last day of the period specified in the notice or, where no period is so specified, beginning with the day on which the notice is served on him, appeal to a court of summary jurisdiction against the notice on the ground that—

- (a) the kind or number of the receptacles required by the notice is unreasonable; or
- (b) the receptacles in which household waste in the premises in question is placed for collection are adequate.

(4) Where an appeal against a notice is brought under paragraph (3)—

- (a) the notice shall be of no effect pending the determination of the appeal; and
- (b) the court shall either quash or modify the notice or dismiss the appeal; and
- (c) no question as to whether the kind or number of receptacles specified in the notice is unreasonable shall be entertained in any proceedings for an offence under this Article in respect of the notice.

(5) A district council may at the request of any person supply him with receptacles for commercial waste or industrial waste which he has requested the council to arrange to collect and shall make a reasonable charge for any receptacle supplied under this paragraph unless in the case of a receptacle for commercial waste the council considers it appropriate not to make a charge.

(6) If it appears to a district council that there is likely to be situated, on any premises in its district, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality in which the premises are situated, the council may, by a notice served on the occupier of the premises, require him to provide at the premises receptacles for the storage of such waste which, subject to paragraph (9), are of a kind and number reasonably specified in the notice; and a person who fails to comply with such a requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(7) A person on whom a notice is served under paragraph (6) may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal to a court of summary jurisdiction against the notice on the grounds that—

- (a) the kind or number of receptacles specified in the notice is unreasonable; or
- (b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality in which the premises are situated.

(8) Where an appeal against a notice is brought under paragraph (7), sub-paragraphs (a) to (c) of paragraph (4) shall apply in relation to the notice as they apply in relation to such a notice as is mentioned in that paragraph.

(9) Provision may be made by regulations with respect to—

- (a) the size, construction and maintenance of receptacles for controlled waste;
- (b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
- (c) the placing of the receptacles for that purpose on roads and the liability for any damage arising out of such placing of the receptacles on roads;
- (d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them;
- (e) the steps to be taken by occupiers of premises for the purpose of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises;
- (f) the giving of directions by district councils with respect to matters mentioned in sub-paragraphs (a) to (e) and compliance with the directions by occupiers of premises and other persons; and
- (g) the imposition of a fine not exceeding £100 on summary conviction of a contravention of the regulations or directions given under the regulations.

(10) References to receptacles in this Article include references to holders for receptacles.

#### *Removal of waste deposited in breach of licensing provisions*

16.—(1) If any controlled waste is deposited on any land in the district of a district council in contravention of Article 5 (1), the council may serve a notice on the occupier of the land requiring him—

- (a) to remove the waste from the land within a period specified in the notice, which shall not be less than twenty-one days beginning with the date of service of the notice; or
- (b) to take within such a period such steps as are so specified with a view to eliminating or reducing the consequences of the deposit of the waste,

or requiring him both to remove the waste as mentioned in sub-paragraph (a) and to take such steps as are mentioned in sub-paragraph (b) within that period.

(2) A person served with a notice under paragraph (1) may within the twenty-one days appeal to a court of summary jurisdiction against the notice; and on any such appeal the court shall quash the notice if it is satisfied that—

- (a) the appellant neither deposited nor caused nor knowingly permitted the deposit of the waste on the land; or

(b) service of the notice on the appellant was not authorised by paragraph (1); or

(c) there is a material defect in the notice;

and in any other case shall either modify the notice or dismiss the appeal.

(3) Where a person appeals against a notice under this Article, the notice shall be of no effect pending the determination of the appeal; and where the court modifies the notice or dismisses the appeal it may extend the period specified in the notice.

(4) If a person on whom a notice is served under paragraph (1) 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 £400; 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.

(5) Where a person is convicted under paragraph (4) 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 (4) and shall be liable on summary conviction, in addition to the fine specified in that paragraph, to a fine not exceeding £50 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 (4) (b).

(6) If it appears to a district council that controlled waste has been deposited on any land in the district in contravention of Article 5 (1), and that—

(a) in order to remove or prevent danger to public health it is necessary forthwith to remove the waste or to take other steps with a view to eliminating or reducing the consequences of the deposit of it or necessary forthwith to remove the waste and to take such other steps; or

(b) there is no occupier of the land in question; or

(c) the occupier of the land neither made nor knowingly permitted the deposit of the waste,

the council may remove the waste from the land or take such other steps as aforesaid or, as the case may require, may remove it and take such other steps.

(7) Where a district council exercises in respect of any land a power conferred on it by paragraph (6) it may recover the cost of doing so and of disposing of any waste removed—

(a) in a case falling within sub-paragraph (a) of that paragraph, from the occupier of the land unless he proves that he neither made nor caused nor knowingly permitted the deposit in question;

(b) in any case, from any person who deposited or caused or knowingly permitted the deposit of any of the waste in question on the land,

except such of the cost as the occupier or other person shows was incurred unnecessarily.

(8) Any waste removed by a district council under this Article shall belong to the council and may be dealt with accordingly.

*Special provisions with respect to certain dangerous or intractable waste*

17.—(1) If the Department considers that controlled waste of any kind is or may be so dangerous or difficult to dispose of that special provision under this paragraph is required for the disposal of waste of that kind by district councils or other persons, the Department shall make provision by regulations for the disposal of waste of that kind (in this Article referred to as “special waste”); and, without prejudice to the generality of the foregoing any such regulations may include provision—

- (a) for the giving of directions by district councils with respect to matters connected with the disposal of special waste;
- (b) for securing that special waste is not, while awaiting disposal kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;
- (c) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;
- (d) for the keeping of records by persons who produce or dispose of special waste or transfer it to another person for disposal, for the inspection of the records and for the furnishing by such persons to prescribed authorities of copies of or information derived from the records;
- (e) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence (which shall not exceed, on summary conviction, a fine of £1,000 and, on conviction on indictment, imprisonment for a term of two years and a fine).

(2) Without prejudice to the generality of paragraph (1) regulations may include provision—

- (a) requiring special waste of particular kinds to be disposed of only by district councils or, in the case of special waste of a kind which the Department considers involves or may involve such a risk of damage to persons or animals or vegetation that it should be disposed of only by the Department, to be disposed of only by the Department;
- (b) for the supervision by district councils (whether by the application with modifications of provisions of Article 11 or otherwise) of activities authorised under the regulations;
- (c) as to the recovery of expenses or other charges for disposals by district councils or the Department under the regulations;
- (d) as to appeals to the Department from decisions of district councils under the regulations.

(3) Provision may also be made by regulations—

- (a) for the giving of a direction, in respect of any place in respect of which a disposal licence or a resolution under Article 13 is in force, requiring the holder of the licence or the district council which passed the resolution to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified;
- (b) as to the consents to be obtained and the other steps to be taken before a direction may be given under the regulations and as to appeals to the Department against a direction so given;
- (c) providing that a failure to comply with such a direction shall be an offence punishable on summary conviction by a fine not exceeding £400 or such less amount as is prescribed and that a person shall not be guilty

of an offence under any prescribed statutory provision by reason only of anything necessarily done or omitted in order to comply with such a direction.

*Waste other than controlled waste*

*Application of preceding provisions to other waste*

18.—(1) The Department may, after consultation with such bodies as the Department considers appropriate, make regulations providing that prescribed provisions of Articles 3 to 13, 16, 17 and 21 shall have effect in a prescribed area—

- (a) as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in Article 36 (2) (c) (ii) which is of a kind so specified; and
- (b) with such other modifications as are prescribed.

(2) A person who—

- (a) deposits on any land any waste other than controlled waste; or
- (b) causes or knowingly permits the deposit on any land of any waste other than controlled waste,

in a case where, if the waste were controlled waste and any disposal licence relating to the land were not in force, he would be guilty of an offence under Article 5 (3) shall be guilty of such an offence unless the act charged was done under and in accordance with the terms of any consent, licence, approval or authority granted under any statutory provision (excluding any planning permission under the Planning (Northern Ireland) Order 1972) and in this paragraph "land" includes such water as is mentioned in Article 6 (4).

(3) Article 14 (2) and Article 15 (5) shall apply to waste other than controlled waste as they apply to controlled waste.

(4) Regulations made under paragraph (1)—

- (a) may make such modifications of any statutory provision (other than the said Articles) as the Department considers appropriate in connection with the regulations;
- (b) shall be subject to affirmative resolution.

*Removal of waste deposited on land*

19.—(1) If any waste, other than controlled waste or a motor vehicle, is deposited on any land in the open air or on any other land forming part of a road in the district of a district council in contravention of Article 18 (2) or 28 (1), the council may, subject to paragraph (2), remove the waste.

(2) A district council may not exercise its powers under paragraph (1) as respects waste deposited on land appearing to the council to be occupied by any person unless the council has served on him notice that the council proposes to remove the waste and he has failed to serve on the council, within the prescribed period, notice that he objects to the proposal.

(3) A district council by whom any waste is removed under paragraph (1) may recover the cost of doing so and of disposing of it from any person who deposited the waste on the land or any person convicted of an offence under Article 18 (2) or 28 (1) in consequence of the depositing of the waste on that land.

*Powers of district councils as respects other waste*

20. Each district council may collect information about, and make arrangements for the disposal of, waste which is situated or likely to be situated in its district and is not controlled waste; but nothing in section 98 of the Local Government Act (Northern Ireland) 1972 or in Article 72 or 76 shall apply to functions conferred on a district council or information collected by a district council under this Article.

*Disposal of waste*

*Disposal of waste*

21.—(1) A district council may provide plant and equipment for the sorting and baling of waste paper or for sorting or processing waste.

(2) A district council shall arrange for the disposal of any waste collected or removed by it under this Order; and, without prejudice to a district council's powers apart from the following provisions of this paragraph, a district council for the purpose of performing that duty may provide within or outside its district,—

- (a) places at which to deposit waste before the council transfers it to a place or plant or equipment provided under sub-paragraph (b); and
- (b) places at which to dispose of the waste and plant or equipment for processing it or otherwise disposing of it.

(3) Paragraphs (5) and (6) of Article 14 shall have effect in relation to the disposal of waste by a district council as if the reference in sub-paragraph (a) of that paragraph (5) to the collection of waste under that Article included a reference to the disposal of waste under this Article and the disposal of anything produced from waste belonging to the council.

(4) A district council may permit another person to use facilities provided by the council under this Article and may provide for the use of another person any such facilities as the council may provide under this Article; and—

- (a) subject to sub-paragraph (b), the council shall make a reasonable charge in respect of the use by another person of the facilities unless the council considers it appropriate not to make a charge;
- (b) no charge shall be made under this paragraph in respect of household waste; and
- (c) anything delivered to the council by another person in the course of using the facilities shall belong to the council and may be dealt with accordingly.

(5) The power of a district council to provide places, plant and equipment and to dispose of any thing under the foregoing provisions of this Article includes power to enter into an agreement with any other person for the provision of facilities by him for the purposes of those provisions at any place under his control.

*Provision of household waste disposal facilities*

22.—(1) Each district council shall provide places where household waste may be deposited at all reasonable times free of charge by any person.

(2) Any place provided by a district council under paragraph (1) shall either be situated within the district of the council or, if not so situated, be reasonably accessible to persons resident in that district; and a district council may, without prejudice to the generality of paragraph (1), determine that any such place shall be available for the deposit of household waste of such descriptions only as are specified in the determination.



*Reclamation, etc., of waste*

*Reclamation of waste*

23. Without prejudice to the powers of district councils apart from this Article, a district council may—

- (a) do such things as the council considers appropriate for the purpose of—
  - (i) enabling waste belonging to the council, or belonging to another person who requests the council to deal with it under this Article, to be used again, or
  - (ii) enabling substances to be reclaimed from such waste;
- (b) buy or otherwise acquire waste with a view to its being used again or to the reclamation of substances from it; and
- (c) use, sell or otherwise dispose of waste belonging to the council or anything produced from such waste.

*Production of heat and electricity from waste, etc.*

24.—(1) A district council may, subject to paragraphs (2) and (3),—

- (a) use waste belonging to the council for the purpose of producing from it heat or electricity or both;
- (b) establish and operate, within or outside its district, such generating stations and other installations as the council thinks fit for that purpose; and
- (c) where the council operates an installation in which waste is usually used as the main fuel for the purpose of producing heat or electricity, then—
  - (i) in the case of an installation for producing heat, use other fuel in addition to waste to produce the heat, and
  - (ii) in the case of an installation for producing electricity, use other fuel to assist in burning the waste to produce the electricity,and, in an emergency, use other fuel instead of waste to produce the heat or electricity;

and a district council may use, sell or otherwise dispose of any heat produced by the council under this Article.

(2) A district council shall not make any arrangements with a view to the production from waste of electricity for use otherwise than by the council unless—

- (a) the council has had consultations about the arrangements with the Northern Ireland Electricity Service under paragraph (3) (b);
- (b) the arrangements are approved by the Department of Commerce and are in accordance with any conditions which attached to that approval.

(3) Where a district council produces electricity under this Article the council—

- (a) may use any of the electricity at the installation at which it was produced and on any premises occupied by the council in connection with the installation, but shall not use any of it elsewhere;
- (b) may sell any of the electricity, on such terms as are specified in the relevant arrangements made under paragraph (2) to the Northern Ireland Electricity Service, but shall not sell or otherwise dispose of any of it to any other person;

and the Northern Ireland Electricity Service shall buy electricity from the council in accordance with the said arrangements.

(4) Paragraph (5) of Article 14 (except sub-paragraph (b) of that paragraph) and paragraph (6) of that Article shall have effect in relation to the conveyance of heat produced by a district council as if the reference in that paragraph (5)

to the collection of waste under that Article included a reference to the conveying of heat produced by the district council under this Article and of air, steam and water heated by such heat.

(5) A district council by which an installation for producing heat is operated under this Article in any year shall furnish to the Department as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at it as are prescribed.

(6) Nothing in this Article (except the restrictions imposed by paragraphs (2) and (3)) shall be construed as prejudicing any power exercisable by a district council apart from this Article.

#### *Street cleaning and litter*

##### *Street cleaning, etc.*

25.—(1) The Department shall undertake the cleaning of roads so far as the cleaning of roads is necessary for the maintenance of the roads or the safety of traffic on them.

(2) Each district council shall undertake the cleaning of the streets in its district so far as the cleaning of them appears to the council to be necessary in the interests of public health or the amenities of the area; but a district council shall not undertake the cleaning of any special road within the meaning of the Special Roads Act (Northern Ireland) 1963 (a).

(3) A district council may, with the consent of any person who has an interest in or is the occupier of any relevant land, arrange for the cleaning of the land and may enter into an agreement with such a person for the payment by him of charges in respect of the cleaning; and in this paragraph "relevant land" means any land in the open air to which members of the public have access, either as of right or otherwise, and which is not the site of a road.

(4) A district council—

(a) may provide and maintain in any street receptacles for litter;

(b) shall make arrangements for the regular emptying and cleaning of any receptacles provided by it under sub-paragraph (a); and

(c) may clean and empty receptacles for litter provided in any street by any other person.

(5) The regular emptying mentioned in paragraph (4) (b) shall be sufficiently frequent to ensure that no such receptacle or its contents shall become a nuisance or give reasonable grounds for complaint.

##### *Prohibition of parking to facilitate street cleaning*

26.—(1) Where in the case of any part of a road (in this Article referred to as "the relevant area") the Department or the district council in whose district the relevant area is situated considers that, in order to facilitate the cleaning of the relevant area on a particular day (in this Article referred to as "the relevant day"), it is appropriate to prohibit the parking of vehicles in the relevant area during certain hours of the relevant day, the Department or the council may give notice in accordance with the following provisions of this Article prohibiting such parking.

(2) Such a notice must specify the relevant area, the relevant day and the hours in question and must be in such form and contain such other information as are prescribed; and subject to paragraph (3) (a) and (b) a copy of the notice must—

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(a) 1963 c. 12 (N.I.).

- (a) be served in accordance with regulations on the occupier of any premises adjoining the relevant area and on any prescribed person; and
- (b) be conspicuously displayed in accordance with regulations at places in the relevant area.

(3) Regulations may provide—

- (a) that such a notice which is served in a prescribed manner in respect of any premises shall be treated for the purposes of this Article as served on the occupier of the premises;
- (b) that a failure to serve or display a notice as required under this Article apart from the regulations shall in prescribed circumstances be disregarded for the purposes of this Article; and
- (c) for the covering up of traffic signs and parking meters on the relevant day or any part of it, but without prejudice to the effect of the notice in question if regulations made under this sub-paragraph are not observed.

(4) If, either before or during the hours on the relevant day which are specified in a notice given by the Department or the district council as mentioned in paragraph (1) the Department or the council displays such further notices in the relevant area and takes such other steps (if any) as are prescribed, the prohibition on parking attributable to the notice so given shall not come into force or, if it is already in force, shall cease to be in force.

(5) Where any parking in the relevant area is, under a notice given as mentioned in paragraph (1), prohibited during specified hours on the relevant day, no right of action shall accrue to any person by reason of the fact that all or some of the cleaning of the relevant area which the Department or, as the case may be, the district council proposes to do or has done during those hours is not cleaning which the Department or that council has or had power to do if the other of those persons has or had power to do it.

(6) Any reference in this Article to a part of a road includes any such part on which the parking of vehicles is, apart from this Article, authorised by virtue of any statutory provision whether on payment or free of charge; and where the parking of vehicles on such a part is prohibited under this Article a person shall not be entitled to recover any sum paid by him in respect of the parking of a vehicle there.

#### *Abatement of litter*

27.—(1) Each district council shall consult with such voluntary bodies as the council considers appropriate and as agree to participate in the consultations, about the steps which the council and the bodies are to take for the purpose of abating litter in the district; and the district council shall—

- (a) prepare a statement of the steps which the council and bodies agree to take for that purpose; and
- (b) take such steps as in its opinion will give adequate publicity in the district to the statement; and
- (c) keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.

(2) A district council, with a view to promoting the abatement of litter, may take such steps as the council thinks appropriate for making known to the public in the district the effect of Article 28 (1).

(3) The Department may with the consent of the Department of Finance make grants to any body for the purpose of assisting the body to encourage the public not to deface places in Northern Ireland by litter.

*Penalty for depositing litter*

28.—(1) Any person who, without lawful authority,—

(a) throws, dumps or otherwise deposits; or

(b) causes or permits to be thrown, dumped or otherwise deposited,

any litter, other than waste to which Article 5 (1) or 18 (2) applies, into or upon any place in the open air shall, subject to paragraph (2), be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that at the time of throwing, dumping or depositing the litter in any place—

(a) the throwing, dumping or depositing was for a temporary purpose only; and

(b) that he intended to remove the litter thrown, dumped or deposited, or have that litter removed, before he left that place.

(3) In sentencing a person convicted of an offence under this Article the court shall have regard not only to the purpose of this Article in preventing the defacement by litter of places in the open air, but also to the nature of the litter and any resulting risk (in the circumstances of the offence) of injury to persons or animals or of damage to property.

(4) For the purposes of this Article any covered place open to the air on at least one side and available for public use shall be deemed to be a place in the open air.

*Motor vehicles*

*Penalty for abandoning motor vehicles*

29.—(1) Any person who, without lawful authority, abandons on any land in the open air, or on any other land forming part of a road,—

(a) a motor vehicle, or

(b) any thing which formed part of a motor vehicle and was removed from it in the course of dismantling the vehicle on the land,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400 or, in the case of a second or subsequent conviction, to such a fine or to imprisonment for a term not exceeding three months or both.

(2) For the purposes of paragraph (1), a person who leaves any motor vehicle or thing which formed part of a motor vehicle on any land in such circumstances or for such a period that he may reasonably be assumed to have abandoned it there shall be deemed to have abandoned it there or, as the case may be, to have brought it to the land for that purpose unless the contrary is shown.

(3) In this Article and Article 30, “road” includes any street, carriageway, highway or roadway to which the public has access.

*Removal of abandoned vehicles*

30.—(1) Where it appears to a district council that a motor vehicle in its district is abandoned without lawful authority on any land in the open air or on any other land forming part of a road the council shall, subject to the following provisions of this Article, remove the vehicle.

(2) Where it appears to a district council that the land on which a motor vehicle is abandoned as aforesaid is occupied by any person, the council shall, before removing the vehicle under paragraph (1), serve on him notice that it proposes to do so and the council shall not be entitled to remove it if, within the prescribed period, that person serves on the council notice that he objects to the proposal; and a district council shall not be required under paragraph (1) to remove a vehicle situated otherwise than on a carriageway if it appears to the council that the cost of its removal to the nearest convenient carriageway would be unreasonably high.

(3) Where under this Article a district council proposes to remove a vehicle which in its opinion is in such a condition that it ought to be destroyed the council shall, not less than the prescribed period before removing it, cause to be affixed to the vehicle a notice stating that the council proposes to remove it for destruction on the expiration of that period.

(4) While a vehicle, other than a vehicle to which a notice was affixed under paragraph (3), is in the custody of a district council under this Article, the council shall take such steps as are reasonably necessary for the safe custody of the vehicle.

#### *Disposal of removed vehicles*

31.—(1) Subject to paragraph (5), a district council may, in such manner as it thinks fit, dispose of any vehicle which is in its custody in pursuance of Article 30—

- (a) in the case of a vehicle to which a notice was affixed under paragraph (3) of that Article and on which no current licence was displayed at the time of its removal, at any time in the course of or after its removal;
- (b) in the case of a vehicle to which a notice was so affixed and on which a current licence was so displayed, at any time after the licence ceases to be in force;
- (c) in any other case, at any time after the council has taken reasonable steps to find a person appearing to it to be the owner of the vehicle and either—
  - (i) the council has failed to find such a person, or
  - (ii) he has failed to comply with a notice served on him by the council requiring him to remove the vehicle within the prescribed period from the custody of the council,

but, in a case where it appears to the council that a licence is in force in respect of the vehicle, not before the licence ceases to be in force.

(2) In paragraph (1)—

- (a) any reference in sub-paragraphs (a) and (b) to a current licence includes a reference to a licence which was current during any part of the period of fourteen days ending with the day preceding that on which the removal of the vehicle in question took place; and
- (b) for the purposes of sub-paragraphs (b) and (c) a licence shall be treated as still in force for a period of fourteen days beginning with the day following that on which it expired, and “ceases to be in force” shall be construed accordingly.

(3) The power to dispose of vehicles conferred on a district council by paragraph (1) includes power—

- (a) to provide plant and apparatus for the purpose of disposing of vehicles; and

(b) to enter into an agreement with any other person for the provision of facilities by him for the purpose of disposing of vehicles at any place under his control.

(4) A district council by whom a vehicle is disposed of under this Article shall give particulars of the disposal to any person who appears to it to have been the owner of the vehicle immediately before it was disposed of.

(5) If before a vehicle is disposed of by a district council under the foregoing provisions of this Article the vehicle is claimed by a person who satisfies the council that he is its owner and pays to the council any expenses reasonably incurred by it in respect of its removal and storage, the council shall permit him to remove the vehicle from its custody during such period as may be prescribed; and if before the expiration of the period of one year beginning with the date on which a vehicle is sold by a district council under this Article any person satisfies the council that at the time of its sale he was the owner of the vehicle, the council shall pay over to him any sum by which the proceeds of sale exceed any expenses reasonably incurred by the council in respect of the removal storage and disposal of the vehicle.

(6) If in the case of any vehicle it appears to the district council that more than one person is or was its owner at the relevant time, such one of them as the council thinks fit shall be treated as its owner for the purposes of paragraph (5).

*Recovery of expenses connected with removed vehicles*

32.—(1) Where a vehicle is removed by a district council under Article 31 (1), the council may recover from any person responsible any expenses reasonably incurred by it—

- (a) in respect of the removal of the vehicle; and
- (b) in respect of any period during which the vehicle is in its custody; and
- (c) where the vehicle is disposed of under Article 31, in respect of its disposal.

(2) Any sum recoverable by virtue of this Article shall be a civil debt recoverable summarily; and without prejudice to the foregoing provisions of this paragraph the court by which a person is convicted of an offence under Article 29 (1) in respect of a motor vehicle, may on the application of the district council by whom the vehicle was removed as aforesaid and in addition to any other order made by the court in relation to that person order him to pay to the council any sum which, in the opinion of the court, the council are entitled to recover from him under this Article in respect of the vehicle.

- (3) In this Article “person responsible”, in relation to a vehicle, means—
- (a) the owner of the vehicle at the time when it was put in the place from which it was removed under Article 30 (1), unless he shows that he was not concerned in and did not know of its being put there;
  - (b) any person by whom it was put in the place aforesaid;
  - (c) any person convicted of an offence under Article 29 (1) in consequence of the putting of the vehicle in the place aforesaid.

*Supplemental*

*Enforcement of Articles 28 and 29*

33.—(1) Where an authorised person believes that an offence under Article 28 or 29 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 the owner or occupier of land or a constable in uniform) demanding the name and address of any other person under paragraph (1) shall, if so required, produce his credentials.

(3) If a person whose name and address has been demanded under paragraph (1) fails to comply with the demand, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20.

(4) Without prejudice to the right of any other person to institute proceedings for an offence under Article 28 or 29, a district council may institute proceedings for such an offence committed in its district and a district council or public body may institute proceedings for such an offence committed on land controlled or managed by it.

(5) In this Article—

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

(a) an officer of the district council within whose district the place or, as the case may be, the land is situated, being an officer authorised by the council to exercise functions under this Article;

(b) an officer of the district council or public body by whom the place or, as the case may be, the land is controlled or managed, being an officer authorised by the council or body to exercise functions under this Article;

(c) the owner or occupier of the place (being private land) or, as the case may be, the land, or any servant or agent of his duly authorised by him in writing, or

(d) a constable;

“believes” means believes on reasonable grounds.

*Interference with refuse tips and dustbins, etc.*

34.—(1) No person shall sort over or disturb—

(a) anything deposited at a place provided by a district council for the deposit of waste or in a receptacle for waste which is provided by a district council for public use; or

(b) the contents of any receptacle for waste which in accordance with regulations made under Article 15 (9), is placed on any road or in any other place with a view to its being emptied,

unless—

(i) in the case of anything deposited as mentioned in sub-paragraph (a), he is authorised to do so by the council, or

(ii) in the case of such a receptacle as is mentioned in sub-paragraph (b), he is a person entitled to the custody of the receptacle or is authorised to do so by such a person or is a person having the function of emptying the receptacle.

(2) A person who contravenes any of the provisions of paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

*Supplementary provisions relating to pipes*

35.—(1) Where a district council provides pipes under Article 14 (5), 21 (3) or 24 (4), the council shall prepare a map in the prescribed form showing the location of the pipes and shall secure that a copy of the map is available at its

principal offices for inspection by the public free of charge at all reasonable hours.

(2) Section 29 of the Public Health (Ireland) Act 1878 (under which the erection of buildings over a sewer may be prevented or controlled by a district council) shall have effect as if the reference to a sewer included any pipe provided as mentioned in paragraph (1).

(3) References to pipes in this Article include associated works.

*Interpretation, etc., of Part II*

36.—(1) In this Part—

- “associated works”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, inspection chamber and manhole and such other works as are prescribed;
- “carriageway” means a way constituting or forming part of a road, being a way over which the public have a right of way for the passage of motor vehicles;
- “controlled waste” means household, industrial and commercial waste or any such waste;
- “disposal licence” has the meaning assigned to it by Article 5 (1) and “holder” in relation to such a licence shall be construed in accordance with Article 10 (3);
- “licence”, in relation to a vehicle, means a licence issued in respect of the vehicle under the Vehicles (Excise) Act (Northern Ireland) 1972 (a) or anything which appears to the district council concerned to be a corresponding licence in a country other than Northern Ireland;
- “litter” 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;
- “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer;
- “owner”, in relation to a motor vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;
- “public body” means any public authority, board, commissioners or public body of any kind constituted by or under any statutory provision whether of a general or special nature;
- “relevant land” means—
- (a) in relation to a proposal to issue a disposal licence, the land on which activities may be carried on under the licence if it is issued in accordance with the proposal, and
  - (b) in relation to a disposal licence, the land on which activities may be carried on under the licence,
- and references to land in sub-paragraphs (a) and (b) include such water as is mentioned in Article 6 (4);

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(a) 1972 c. 10 (N.I.).



“road” has the same meaning as in the Roads Act (Northern Ireland) 1948 (a);

“waste” includes—

(a) any substance which constitutes a scrap material or an effluent or other unwanted surplus substance arising from the application of any process; and

(b) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled,

but does not include a substance which is an explosive within the meaning of the Explosives Acts 1875 to 1970 (b) or any substance to which Article 3 of the Explosives (Northern Ireland) Order 1972 (c) applies;

and for the purposes of this Part any thing which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved.

(2) Subject to paragraph (3), for the purposes of this Part—

(a) household waste consists of waste from a private dwelling or residential home or from premises forming part of a university or school or other educational establishment or forming part of a hospital or nursing home;

(b) industrial waste consists of waste from any factory within the meaning of the Factories Act (Northern Ireland) 1965 (d) and any premises occupied by a body corporate established by or under any statutory provision for the purpose of carrying on under national ownership any industry or part of an industry or any undertaking, excluding waste from any mine or quarry; and

(c) commercial waste consists of waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—

(i) household and industrial waste, and

(ii) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949 (e), and

(iii) waste of any other description prescribed for the purposes of this sub-paragraph.

(3) Regulations may provide that waste of a prescribed description shall be treated for the purposes of prescribed provisions of this Part as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made under this paragraph in respect of such waste as is mentioned in paragraph (2) (c) (ii) and references in paragraph (2) and this paragraph to waste do not include sewage except so far as regulations provide otherwise.

(4) Except as provided by regulations made under this paragraph, nothing in this Part applies to radioactive waste within the meaning of the Radioactive Substances Act 1960 (f); but regulations may—

(a) provide for prescribed provisions of this Part to have effect with such modifications as the Department considers appropriate for the purposes of dealing with such radioactive waste;

(b) make such modifications of that Act of 1960 and any other statutory provision as the Department considers appropriate in consequence of

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(a) 1948 c. 28 (N.I.). (b) 1875 c. 17; 1924 c. 5 (N.I.); 1970 c. 10 (N.I).  
(c) S.I. 1972/730 (N.I. 3). (d) 1965 c. 20 (N.I.).  
(e) 1949 c. 2 (N.I.). (f) 1960 c. 34.

the making of this Part or in connection with regulations made under sub-paragraph (a).

(5) In Articles 19, 28, 29 and 30 any reference to a place or land in the open air includes a reference to a place or land covered only by water.

(6) The district of a district council which is bounded by or to seaward of the high-water mark of mean tides shall also include for the purposes of this Part, the land between that high-water mark and the low-water mark of ordinary spring tides which is outside that district to seaward of any place where that high-water mark is within or on the boundary of that district.

### PART III

#### NOISE

##### *Periodical inspections by district councils*

##### *Periodical inspections by district councils*

37. Every district council shall cause its district to be inspected—

- (a) to detect anything which ought to be dealt with under Article 38; and
- (b) to decide how to exercise its powers concerning noise abatement zones.

##### *Summary proceedings to deal with noise*

##### *Summary proceedings by district councils*

38.—(1) Where a district council is satisfied that noise amounting to a nuisance exists, or is likely to occur or recur, in the district of the council, the council shall serve a notice imposing all or any of the following requirements—

- (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
- (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice or as may be specified in the notice;

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

(2) The notice shall be served on the person responsible for the nuisance or, if that person cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises from which the noise is or would be emitted.

(3) The person served with the notice may appeal against the notice to a court of summary jurisdiction within twenty-one days from service of the notice.

(4) If a person on whom a notice is served under this Article without reasonable excuse contravenes any requirement of the notice, he shall be guilty of an offence against this Part.

(5) In proceedings for an offence under paragraph (4) in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means have been used for preventing, or for counteracting the effect of, the noise.

(6) In proceedings for an offence under paragraph (4) of contravening requirements imposed under paragraph (1) it shall be a defence to prove—

- (a) that the alleged offence was covered by a notice served under Article 40 or a consent given under Article 41 or 45; or
- (b) where the alleged offence was committed at a time when the premises were subject to a notice under Article 46, that the level of noise emanating from the premises at that time was not such as to constitute a contravention of the notice under Article 46; or

(c) where the alleged offence was committed at a time when the premises were not subject to a notice under Article 46, and when a level fixed under Article 47 applied to the premises, that the level of noise emanating from the premises at that time did not exceed that level;

and sub-paragraphs (b) and (c) apply whether or not the relevant notice was subject to appeal at the time when the offence was alleged to have been committed.

(7) Where a nuisance which exists or has occurred within the district of a district council, or which has affected any part of that district, appears to the council to be wholly or partly caused by some act or default committed or taking place outside its district, the district council may act under this Article as if the act or default were wholly within that district, except that any appeal shall be heard by a court of summary jurisdiction having jurisdiction where the act or default is alleged to have taken place.

(8) If a district council is of opinion that proceedings for an offence under paragraph (4) would afford an inadequate remedy in the case of any noise which is a nuisance, it may take proceedings in the High Court for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding that the district council has suffered no damage from the nuisance; but in any proceedings taken under this paragraph it shall be a defence to prove that the noise was authorised by a notice under Article 40 or a consent under Article 41.

#### *Summary proceedings by occupier of premises*

39.—(1) A court of summary jurisdiction may act under this Article on a complaint made by the occupier of any premises on the ground that in his capacity as occupier of the premises he is aggrieved by noise amounting to a nuisance.

(2) If the court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, the court shall make an order for either or both of the following purposes—

- (a) requiring the defendant to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose.
- (b) prohibiting a recurrence of the nuisance, and requiring the defendant, within a time specified in the order, to execute any works necessary to prevent the recurrence.

(3) Proceedings under this Article shall be brought against the person responsible for the nuisance or, if that person cannot be found, against the owner or occupier of the premises from which the noise is or would be emitted.

(4) A person who without reasonable excuse contravenes any requirement of an order under paragraph (2) shall be guilty of an offence against this Part.

(5) In proceedings for an offence under this Article in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means have been used for preventing, or for counteracting the effect of, the noise.

(6) If a person is convicted of an offence under paragraph (4), a court of summary jurisdiction may, after giving the district council in whose district the nuisance has occurred an opportunity of being heard, direct the council to do anything which the person convicted was required to do by the order to which the conviction relates.

### *Construction sites*

#### *Control of noise on construction sites*

40.—(1) This Article applies to works of the following description, that is to say—

- (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
- (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
- (c) demolition or dredging work; and
- (d) (whether or not also comprised in sub-paragraph (a), (b) or (c) above) any work of engineering construction;

but shall not apply to any such works carried out by a government department.

(2) Where it appears to a district council that works to which this Article applies are being, or are going to be, carried out on any premises, the council may serve a notice imposing requirements as to the way in which the works are to be carried out and may if it thinks fit publish notice of the requirements in such way as appears to the council to be appropriate.

(3) The notice may in particular—

- (a) specify the plant or machinery which is, or is not, to be used;
- (b) specify the hours during which the works may be carried out;
- (c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and
- (d) provide for any change of circumstances.

(4) In acting under this Article the district council shall have regard—

- (a) to the relevant provisions of any code of practice issued under this Part;
- (b) to the need for ensuring that the best practicable means are employed to minimise noise;
- (c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable to them;
- (d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.

(5) A notice under this Article shall be served on the person who appears to the district council to be carrying out, or going to carry out, the works, and on such other persons appearing to the council to be responsible for, or to have control over, the carrying out of the works as the council thinks fit.

(6) A notice under this Article may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.

(7) A person served with a notice under this Article may appeal against the notice to a court of summary jurisdiction within twenty-one days from the service of the notice.

(8) If a person on whom a notice is served under this Article without reasonable excuse contravenes any requirement of the notice he shall be guilty of an offence against this Part.

*Prior consent for work on construction sites*

41.—(1) A person who intends to carry out works to which Article 40 applies may apply to the district council for a consent under this Article.

(2) Where approval under the Building Regulations (Northern Ireland) Order 1972 (a) is required for the carrying out of the works, the application under this Article must be made at the same time as, or later than, the request for the approval under building regulations.

(3) An application under this Article shall contain particulars of—

(a) the works, and the method by which they are to be carried out; and

(b) the steps proposed to be taken to minimise noise resulting from the works.

(4) If the district council considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, it would not serve a notice under Article 40 in respect of those works, the district council shall give its consent to the application.

(5) In acting under this Article a district council shall have regard to the considerations set out in Article 40 (4) and may—

(a) attach any conditions to a consent; and

(b) limit or qualify a consent to allow for any change in circumstances; and

(c) limit the duration of a consent,

and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to a consent under this Article shall be guilty of an offence against this Part.

(6) The district council shall give notice of its decision to the applicant and if the council gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates in such way as appears to the council to be appropriate.

(7) If within the period of twenty-eight days from receipt of the application, or within such longer period as the council and the applicant may at any time agree in writing, the district council—

(a) has not given notice to the applicant of its decision on the application; or

(b) refuses its consent; or

(c) gives its consent but attaches any condition to the consent or limits or qualifies the consent in any way,

the applicant may appeal to a court of summary jurisdiction within twenty-one days from the end of that period.

(8) In any proceedings for an offence under Article 40 (8) it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this Article.

(9) A consent given under this Article shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under Article 39.

(10) Where a consent has been given under this Article and the works are carried out by a person other than the applicant for the consent, the applicant shall take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this paragraph he shall be guilty of an offence against this Part.

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(a) S.I. 1972/1996 (N.I. 19).

### *Noise in streets*

#### *Noise in streets*

42.—(1) Subject to the provisions of this Article, a loudspeaker in a street shall not be operated—

- (a) between the hours of nine in the evening and eight in the following morning, for any purpose;
- (b) at any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this paragraph shall be guilty of an offence against this Part.

(2) Paragraph (1) shall not apply to the operation of a loudspeaker—

- (a) for police, fire brigade or ambulance purposes, by the Department in the exercise of its functions under the Water Act (Northern Ireland) 1972 or the Water and Sewerage Services (Northern Ireland) Order 1973 or by a district council within its district;
- (b) for communicating with persons on a vessel for the purposes of directing the movement of that or any other vessel;
- (c) if the loudspeaker forms part of a public telephone system;
- (d) if the loudspeaker—
  - (i) is in or fixed to a vehicle, and
  - (ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and
  - (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
- (e) otherwise than on a road, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
- (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
- (g) in case of emergency.

(3) Paragraph (1) (b) shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
- (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
- (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

### *Noise abatement zones*

#### *Designation of zones*

43.—(1) A district council may by order confirmed by the Department (in this Part referred to as a “noise abatement order”) designate all or any part of its district a noise abatement zone.

(2) An order under this Article shall specify the classes of premises to which it applies (that is to say, the classes of premises subject to control under the following provisions of this Part).

(3) The provisions of Schedule 1 shall apply to the confirmation and coming into operation of an order under this Article.

*Register of noise levels*

44.—(1) Every district council which has designated its district or any part of its district a noise abatement zone shall measure the level of noise emanating from premises within the zone which are of any class to which the relevant noise abatement order relates.

(2) The district council shall record all measurements taken under paragraph (1) in a register (in this Part referred to as a “noise level register”) to be kept by the council for the purpose in accordance with regulations.

(3) The district council on recording any measurement in the noise level register shall serve a copy of that record on the owner and occupier of the premises in respect of which the measurement was taken; and any person on whom a copy of such a record is served may, within twenty-eight days of the date of service, appeal to the Department against the record.

(4) On an appeal to the Department under paragraph (3) the Department may give to the district council in question such directions as the Department thinks fit as to the record of the measurement of noise which is the subject of the appeal, and the council shall comply with the directions.

(5) Except as provided by paragraphs (3) and (4) the validity or accuracy of any entry in a noise level register shall not be questioned in any proceedings under this Part.

(6) The premises as to which a district council is to make measurements under this Article shall include those which come within a class to which the relevant noise abatement order relates after the making of the order; and it shall be for the council to determine, both for those premises and all other premises of any class to which the relevant noise abatement order relates, when the measurements under this Article are to be made.

(7) A noise level register shall be open to public inspection at the principal office of the district council free of charge at all reasonable hours, and the council shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

(8) Provision may be made by regulations—

(a) for determining, or for authorising the Department to determine, the methods by which noise levels are to be measured for the purposes of any provision of this Article and Articles 45 to 47; and

(b) for enabling noise levels calculated in accordance with the regulations, or in accordance with the directions of the Department to be treated for those purposes as measured by a method determined under sub-paragraph (a).

*Noise exceeding registered level*

45.—(1) The level of noise recorded in the noise level register in respect of any premises shall not be exceeded except with the consent in writing of the district council.

(2) The district council's consent may be made subject to such conditions, whether as to the amount by which the level of noise may be increased, or as to the period for which, or the periods during which, the level of noise may be increased, as may be specified in the consent; and the council shall record particulars of the consent in the noise level register.

(3) If within the period of two months beginning with the date on which a district council receives an application for its consent under this Article or within such longer period as the council and the applicant agree in writing, the council has not notified the applicant of its decision on the application, the council shall be deemed to have refused the consent.

(4) An applicant for consent under this Article may appeal to the Department against the district council's decision on the application within the period of three months beginning with the date on which the council notifies him of the decision or, in a case falling within paragraph (3), beginning with the expiration of the period or longer period there mentioned; and the district council shall act in accordance with the decision of the Department on the appeal.

(5) If noise emitted from any premises constitutes a contravention of paragraph (1) or of a condition attached to a consent under this Article, the person responsible shall be guilty of an offence against this Part.

(6) The court of summary jurisdiction convicting a person of an offence under paragraph (5) may, if satisfied that the offence is likely to continue or recur, make an order requiring the execution of any works necessary to prevent it continuing or recurring, and if that person without reasonable excuse contravenes any requirement of the order he shall be guilty of an offence against this Part.

(7) The court of summary jurisdiction may, after giving the district council in whose district the premises are situated an opportunity of being heard, direct the council to do anything which the court may under paragraph (6) require the person convicted to do, either instead of, or in addition to, imposing any requirement on that person.

(8) A consent given under this Article shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under Article 39.

#### *Reduction of noise levels*

46.—(1) If it appears to the district council—

(a) that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and

(b) that a reduction in that level is practicable at reasonable cost and would afford a public benefit,

the council may serve a notice on the person responsible.

(2) The notice shall require that person—

(a) to reduce the level of noise emanating from the premises to such level as may be specified in the notice;

(b) to prevent any subsequent increase in the level of noise emanating from those premises without the consent of the district council; and

(c) to take such steps as may be specified in the notice to achieve those purposes.



(3) A notice under this Article (in this Part referred to as a “noise reduction notice”) shall specify a time, not being less than six months from the date of service of the notice, within which the noise level is to be reduced to the specified level and, where the notice specifies any steps necessary to achieve that purpose, within which those steps shall be taken.

(4) A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.

(5) A noise reduction notice shall take effect whether or not a consent under Article 45 authorises a level of noise higher than that specified in the notice.

(6) The district council shall record particulars of a noise reduction notice in the noise level register.

(7) A person who is served with a noise reduction notice may, within three months of the date of service, appeal to a court of summary jurisdiction against the notice.

(8) A person who without reasonable excuse contravenes a noise reduction notice shall be guilty of an offence against this Part.

(9) In proceedings for an offence under paragraph (8) in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means had been used for preventing, or for counteracting the effect of, the noise.

*New buildings, etc.*

47.—(1) Where it appears to the district council—

(a) that a building is going to be constructed and that a noise abatement order will apply to it when it is erected; or

(b) that any premises will, as the result of any works, become premises to which a noise abatement order applies,

the council may, on the application of the owner or occupier of the premises or a person who satisfies the authority that he is negotiating to acquire an interest in the premises or on its own initiative, determine the level of noise which will be acceptable as that emanating from the premises.

(2) The district council shall record in the noise level register the level of noise determined under this Article for any premises.

(3) The district council shall give notice of its decision to the applicant or, in the case of a decision made on its own initiative, to the owner or the occupier of the premises, and the recipient of the notice may appeal to the Department against that decision within three months of the date on which the council notifies him of that decision; and the district council shall act in accordance with the decision of the Department on the appeal.

(4) If within the period of two months beginning with the date when the district council receives an application under paragraph (1), or within such longer period as the council and the applicant may at any time agree in writing, the council has not given notice to the applicant of its decision on the application, the council shall be deemed to have given him notice that it has decided not to make a determination on the application; and the applicant may accordingly appeal against the decision to the Department under paragraph (3).

(5) Where at any time after the coming into force of a noise abatement order any premises become premises to which the order applies as a result of the construction of a building or as a result of any works carried out on the premises but no level of noise has been determined under this Article as respects the premises, Article 46 shall apply as if—

- (a) paragraph (1) (b) were omitted; and
- (b) three months were substituted for six months in paragraph (3); and
- (c) paragraph (9) were omitted.

#### *Noise from plant or machinery*

##### *Noise from plant or machinery*

48.—(1) Provision may be made by regulations—

- (a) for requiring the use on or in connection with any plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;
  - (b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which Article 40 applies or which may be caused outside a factory within the meaning of the Factories Act (Northern Ireland) 1965 by the use of plant or machinery in the factory;
- and regulations under this Article may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.

(2) The Department before making regulations under this Article, shall consult persons appearing to the Department to represent producers and users of plant and machinery with a view to ensuring that the regulations do not contain requirements which in the opinion of the Department would be impracticable or involve unreasonable expense.

(3) Any person who contravenes or causes or permits another person to contravene regulations under this Article shall be guilty of an offence against this Part; but in any proceedings for a contravention of regulations made under paragraph (1) (a) it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.

(4) Without prejudice to the generality of Article 86 (2), different regulations may be made under this Article for different localities, and each district council shall enforce the provisions of regulations within its district.

(5) Nothing in this Article or in regulations under this Article shall be construed as derogating from any other provision of this Part.

#### *Supplemental*

##### *Execution of works by district council*

49.—(1) This Article applies—

- (a) to a notice under Article 38;
- (b) to a noise reduction notice; and
- (c) to an order of a court of summary jurisdiction under Article 39 (2) or 45 (6),

being a notice or order which requires any person to execute any works.

(2) If that person fails to execute all or any of the works in accordance with the notice or order, the district council may execute those works.

(3) Where a district council executes works under—

(a) Article 39 (6) or 45 (7); or

(b) this Article,

the district council may recover from the person in default the expenditure incurred by the council in executing the works, except such of the expenditure as that person shows was unnecessary in the circumstances.

(4) In proceedings to recover any amount due to a district council under paragraph (3) in respect of works executed by the council under this Article, it shall not be open to the person in default to raise any question which he could have raised on an appeal against the notice or order.

(5) In this Article “the person in default” means—

(i) in a case under Article 39 (6), the person against whom the order was made under paragraph (2) of that Article,

(ii) in a case under Article 45 (7), the person convicted of an offence under paragraph (5) of that Article, and

(iii) in any other case, the person to whom the notice or order applies.

#### *Appeals*

50.—(1) Regulations may make provision as to appeals under this Part to the Department or to courts of summary jurisdiction; and the regulations may in particular—

(a) include provisions comparable to those in section 42 of the Public Health Acts Amendment Act 1907 (a) (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a notice under this Part is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;

(d) prescribe the cases in which the appellant may claim that a notice should have been served on some other person and prescribe the procedure to be followed in those cases.

(2) Regulations may prescribe the procedure and practice as respect appeals to the Department under this Part, and in particular may make provision as respects—

(a) the particulars to be included in the notice of appeal;

(b) the persons on whom notice of appeal is to be served and the particulars, if any, to accompany the notice; and

(c) the abandonment of an appeal.

(3) In entertaining any appeal under this Part the Department or, as the case may be, the court of summary jurisdiction shall have regard to any duty imposed by law on the appellant which concerns the activities in the course of which the noise is emitted.

#### *Codes of practice for minimising noise*

51.—(1) For the purpose of giving guidance on appropriate methods (including the use of specified types of plant or machinery) for minimising noise the Department may by order—

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(a) 1907 c. 53.

- (a) prepare and approve and issue such codes of practice as in the opinion of the Department are suitable for the purpose; and
- (b) approve such codes of practice issued or proposed to be issued otherwise than by the Department as in the opinion of the Department are suitable for the purpose.

(2) The Department shall by order under paragraph (1) (a) or (b) approve a code of practice for the carrying out of works to which Article 40 applies.

*“Best practicable means”*

52.—(1) This Article shall apply for the construction of references in this Part to best practicable means.

(2) In that expression “practicable” means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.

(3) The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.

(4) The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.

(5) The said test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances.

(6) Subject to paragraphs (1) to (5), regard shall be had, in construing references to “best practicable means”, to any relevant provision of a code of practice approved under Article 51.

*Interpretation, etc., of Part III*

53.—(1) In this Part—

“noise” includes vibration;

“noise abatement order” and “noise abatement zone” have the meanings given by Article 43;

“noise level register” has the meaning given by Article 44 (2);

“noise reduction notice” has the meaning given by Article 46 (3);

“person responsible”, in relation to the emission of noise, means the person to whose act, default or sufferance the noise is attributable;

“statutory undertakers” means persons authorised by any statutory provision to carry on any railway, light railway, tramway, road transport, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity or gas, and includes the Post Office;

“work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.

(2) The district of a district council which is bounded by or is to seaward of the high-water mark of mean tides shall also include for the purposes of this Part except Articles 42 to 47, the territorial sea which is outside that district to seaward of any place where that mark is within or on the boundary of that district; and—

- (a) any question as to whether a place is within the district of a district council under this paragraph shall be determined by the Department; and
- (b) this Part (except Articles 42 to 47 and this paragraph) shall have effect, in relation to any district included in the district of a district council under this paragraph—
  - (i) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and
  - (ii) with such other modifications, if any, as are prescribed.

(3) Where more than one person is responsible for noise, this Part shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part.

(4) This Part does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

#### *Penalties*

54.—(1) A person guilty of an offence against any provision of this Part shall be liable on summary conviction to a fine not exceeding £400; and where a person is guilty of an offence against that provision within one year after the conviction he shall be guilty of a further offence and shall be liable, in addition to that fine, to a fine not exceeding £50 for every day subsequent to the day on which he is first convicted of an offence under that provision on which that provision is contravened.

(2) In determining whether an offence is a further offence against this Part, account shall be taken of any offence under section 114 of the Public Health (Ireland) Act 1878 by way of contravening a nuisance order relating to noise as if it were an offence against this Part.

### PART IV

#### POLLUTION OF THE ATMOSPHERE

##### *Prevention of atmospheric pollution*

##### *Regulations about sulphur content of oil fuel for furnaces or engines*

55.—(1) For the purpose of limiting or reducing air pollution, the Department may by regulations impose limits on the sulphur content of oil fuel which is used in furnaces or engines.

(2) The Department, before making any regulations under this Article, shall consult such persons appearing to the Department—

- (a) to represent producers and users of oil fuel;
- (b) to represent manufacturers and users of plant and equipment for which oil fuel is used; and

(c) to be conversant with problems of air pollution;  
as the Department considers appropriate.

(3) Regulations may—

- (a) prescribe the kinds of oil fuel, and the kinds of furnaces and engines, to which the regulations are to apply;
- (b) apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations;
- (c) authorise the Department to confer exemptions from any provision of the regulations.

(4) It shall be the duty—

- (a) of every district council to enforce the provisions of regulations under this Article within its district, except in relation to a furnace which is part of a work subject to the Alkali Act; and
- (b) of the inspectors appointed under that Act to enforce those provisions in relation to such furnaces.

(5) A person who contravenes any provision of regulations under this Article shall be guilty of an offence and liable—

- (a) on conviction on indictment to a fine; and
- (b) on summary conviction to a fine not exceeding £1,000;

so, however, that the regulations may in any case exclude liability to conviction on indictment, and may in any case reduce the maximum fine on summary conviction.

(6) Regulations under this Article shall, subject to any provision to the contrary in the regulations, apply to fuel used for, and to persons in, the public service of the Crown as they apply to fuel used for other purposes and to other persons; but a district council shall not be entitled under this paragraph to exercise, in relation to fuel used for any persons in that service, any power conferred on the council under section 98 of the Local Government Act (Northern Ireland) 1972 or Article 72.

(7) In this Article "oil fuel" means any liquid petroleum product produced in a refinery.

#### *Cable burning*

56.—(1) A person who burns insulation from a cable with a view to recovering metal from the cable shall be guilty of an offence unless the place at which he does so is a work registered in pursuance of section 9 of the Alkali Act.

(2) Section 16A of the Alkali Act (which provides that certain offences under that Act shall be punishable on summary conviction by a fine not exceeding £1000 or £50 a day in the case of certain offences continuing after conviction and that proceedings for the offences shall not be brought except by an inspector or with the consent of the Department) shall apply to an offence under paragraph (1) as it applies to the offences mentioned in that section.

#### *Information about atmospheric pollution*

##### *Research and publicity*

57.—(1) A district council may—

- (a) undertake, or contribute towards the cost of, investigation and research relevant to the problem of air pollution; and
- (b) arrange for the publication of information on that problem.

(2) Without prejudice to the generality of paragraph (1), district councils may obtain information about the emission of pollutants and other substances into the air—

(a) by issuing notices under Article 58; and

(b) by measuring and recording the emissions, and for that purpose entering on any premises, whether by agreement or in exercise of the power conferred by section 98 of the Local Government Act (Northern Ireland) 1972; and

(c) by entering into arrangements with occupiers of premises under which they measure and record emissions on behalf of the district council;

so, however, that references to premises in sub-paragraphs (b) and (c) do not include private dwellings.

(3) A district council shall not exercise the power mentioned in paragraph (2) (b) for the purpose of measuring and recording such emissions on any premises unless—

(a) the council has given to the occupier of the premises a notice—

(i) specifying the kind of emissions in question and the steps it proposes to take on the premises for the purpose of measuring and recording emissions of that kind, and

(ii) stating that it proposes to exercise that power for that purpose unless the occupier makes a request to the council under this paragraph; and

(b) the period of twenty-one days beginning with the date on which the notice was given has expired,

and shall not exercise that power in consequence of the notice if during that period the occupier gives a notice to the council requesting it to serve on him a notice under Article 58 with respect to the emissions.

(4) Nothing in this Article shall authorise a district council to investigate emissions from any work subject to the Alkali Act otherwise than by issuing notices under Article 58, or by exercising the powers conferred on the council by paragraph (1) (a) of this Article without entering the work.

(5) In acting under paragraph (1) (b), a district council shall ensure that the material published is presented in such a way that no information relating to a trade secret is disclosed, except with the consent in writing of a person authorised to disclose it or with the consent of the Department.

(6) Breach of a duty imposed by paragraph (5) shall be actionable; but in any proceedings, whether civil or criminal, brought against a district council, or any member or officer of a district council, on the grounds that any information has been published, it shall be a defence to show that it was published in compliance with this Article.

(7) Paragraph (6) applies in particular to any proceedings brought under section 32 of the Clean Air Act (Northern Ireland) 1964 (a) (which makes it an offence to disclose information relating to any trade secret).

(8) So long as a district council exercises any of its powers under paragraph (2), it shall consult such persons carrying on any trade or business in the council's district, or such organisations appearing to the council to be representative of those persons, and such persons appearing to the council to be conversant with problems of air pollution or to have an interest in local amenity as appear to the council to be appropriate—

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(a) 1964 c. 16 (N.I.).

- (a) about the way in which the district council exercises its powers under this Article and Article 58; and
  - (b) about the extent to which, and the manner in which, any information collected under those powers should be made available to the public.
- (9) The consultations shall take place not less than twice in each financial year.

*Notices requiring information about air pollution*

58.—(1) A district council may by notice require the occupier of any premises in its district to furnish, whether by periodical returns or by other means, such estimates or other information as may be specified or described in the notice concerning the emission of pollutants and other substances into the air from the premises.

(2) This Article shall not apply to premises in so far as they consist of a private dwelling.

(3) If the notice relates to a work subject to the Alkali Act, the person on whom the notice is served shall not be obliged to supply any information which, as certified by an inspector appointed under that Act, is not of a kind which is being supplied to the inspector for the purposes of that Act.

(4) The person on whom a notice is served under this section shall comply with the notice within six weeks of the date of service, or within such longer period as the district council may by notice allow.

(5) A notice under this Article shall not require returns at intervals of less than three months, and no one notice (whether or not requiring periodical returns) shall call for information covering a period of more than twelve months.

(6) Except so far as regulations provide otherwise, this Article shall apply to premises used for, and to persons in, the public service of the Crown as it applies to other premises and persons; but a district council shall not be entitled under this paragraph to exercise, in relation to premises used for and persons in that service, any power conferred on the council under section 98 of the Local Government Act (Northern Ireland) 1972 or Article 72.

(7) 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 estimate or other information in compliance with a notice under this Article, 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 £400.

(8) Where a person is convicted of an offence under paragraph (7) in respect of any premises and information of any kind, nothing in Article 57 (3) shall prevent a district council from exercising the power of entry there mentioned for the purpose of obtaining information of that kind in respect of the premises.

*Appeals against notices*

59.—(1) A person served with a notice under Article 58, or any other person having an interest in the premises to which the notice relates, may appeal to the Department—



- (a) on the ground that the giving to the council or the disclosure to the public of all or part of the information required by the notice would—
  - (i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or
  - (ii) be contrary to the public interest, or
- (b) on the ground that the information required by the notice is not immediately available and cannot readily be collected or obtained by the recipient of the notice without incurring undue expenditure for the purpose.

(2) If the Department allows the appeal it may direct the district council to withdraw or modify the notice, or to take such steps as may be specified by the Department to ensure that prejudicial information is not disclosed to the public; and the district council shall comply with the direction.

(3) Regulations may make provision as to appeals under this Article, including provision about the time for bringing an appeal and the circumstances in which all or any part of the appellant's case is to be withheld from the respondent; but the Department before making any regulations under this paragraph shall consult such persons appearing to the Department—

- (a) to represent district councils;
  - (b) to represent industrial interests; and
  - (c) to be conversant with problems of air pollution;
- as the Department considers appropriate.

*Regulations about research and publicity*

60.—(1) Regulations shall prescribe the manner in which, and the methods by which, district councils are to perform their functions under Articles 57 and 58.

(2) The Department, before making regulations under this Article, shall consult such persons appearing to the Department—

- (a) to represent district councils;
  - (b) to represent industrial interests; and
  - (c) to be conversant with problems of air pollution;
- as the Department considers appropriate.

(3) Regulations under this Article may in particular—

- (a) prescribe the kinds of emissions to which notices under Article 58 may relate;
- (b) prescribe the kinds of information which may be required by those notices;
- (c) prescribe the manner in which any such notice is to be given, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity;
- (d) require each district council to maintain in a prescribed form a register containing—
  - (i) information obtained by the council under Article 57 (2) other than information as to which a direction under Article 59 (2) provides that the information is not to be disclosed to the public; and
  - (ii) such information (if any) as the Department may determine, or as may be determined by or under regulations, with respect to any

appeal under Article 59 which was against a notice served by the council and which the Department did not dismiss;

- (e) specify the circumstances in which district councils may enter into arrangements with owners or occupiers of premises under which they will record and measure emissions on behalf of the district councils;
- (f) specify the kinds of apparatus which district councils are to have power to provide and use for measuring and recording emissions, and for other purposes.

(4) Regulations under paragraph (3) (b) may in particular require returns of—

- (a) the total volume of gases, whether pollutant or not, discharged from the premises in question over any period;
- (b) the concentration of pollutant in the gases discharged;
- (c) the total of the pollutant discharged over any period;
- (d) the height or heights at which discharges take place;
- (e) the hours during which discharges take place;
- (f) the concentration of pollutants at ground level.

(5) A register maintained by a district council under regulations made under paragraph (3) (d) shall be open to public inspection at the principal office of the council free of charge at all reasonable hours, and the council shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

#### *Provision by district councils of information for the Department*

61.—(1) The Department may, for the purpose of obtaining information about air pollution, direct a district council to make such arrangements as may be specified in the direction—

- (a) for the provision, installation, operation and maintenance by the district council of apparatus for measuring and recording air pollution; and
- (b) for transmitting the information so obtained to the Department.

(2) Where apparatus is provided under a direction under paragraph (1) the Department shall defray the whole of the capital expenditure incurred by a district council in providing and installing the apparatus.

(3) Before giving a direction under paragraph (1) the Department shall consult the district council, and the district council shall comply with any direction given under that paragraph.

#### *Miscellaneous*

##### *Amendment of the Clean Air Act (Northern Ireland) 1964*

62. The Clean Air Act (Northern Ireland) 1964 shall have effect subject to the amendments set out in Schedule 2.

##### *Interpretation of Part IV*

63.—(1) In this Part—

“a work subject to the Alkali Act” means a work registered under section 9 of the Alkali Act, excluding the whole or part of such a work while the work or part is the subject of an order made or treated as made under

subsection (8) of section 18 of the Clean Air Act (Northern Ireland) 1964 (under which certain statutory provisions relating to clean air which apart from that subsection do not apply to works so registered may be applied to such works).

(2) References in this Part to the emission of substances into the atmosphere shall be construed as applying to substances in a gaseous or liquid or solid state, or any combination of those states.

(3) Any reference in this Part to measurement includes a reference to the taking of samples.

## PART V

### WATER

#### *Amendment of certain statutory provisions relating to water*

64. The Water Act (Northern Ireland) 1972 and the Water and Sewerage Services (Northern Ireland) Order 1973 shall have effect subject to the amendments set out in Schedule 3.

## 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 sections 110 to 116 of the Public Health (Ireland) Act 1878,

the district council may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 110 (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 sections 110 to 116 of the Public Health (Ireland) Act 1878, 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 the Planning (Northern Ireland) Order 1972.

*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 (a) and section 7 of the Public Health Acts Amendment Act 1907 (b) (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—

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(a) 1890 c. 59.

(b) 1907 c. 53.

- (a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200; 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 £50 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 Article 2 (2) of the Planning (Northern Ireland) Order 1972.

*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 £200 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 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), the Fire Authority for Northern Ireland have been consulted on the matters dealt with by the bye-laws.

*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 £200 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 bye-laws 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.

*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, 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 £50.

*Notices prohibiting recurrence of nuisances, etc.*

70.—(1) Where a district council is satisfied that a nuisance has occurred on any premises and is likely to recur on the same premises, the council may serve a notice (in this Article referred to as a prohibition notice)—

- (a) in the case of a nuisance arising from any defect of a structural character, on the owner of the premises, and
- (b) in any other case, on the person by whose act, default or sufferance the nuisance arose or, if that person cannot be found, on the owner or occupier of the premises,

prohibiting a recurrence of the nuisance and requiring him to take such steps as may be necessary to prevent a recurrence.

(2) A district council may if it thinks fit specify in a prohibition notice any works necessary to prevent a recurrence of the nuisance to which the notice relates and require the execution of those works.

(3) A prohibition notice may be served whether the nuisance to which it relates is in existence at the time of service of the notice or not and whether or not a notice to abate the nuisance has previously been served with respect to that nuisance.

(4) A prohibition notice and a notice to abate the nuisance may be contained in the same document.

(5) Where a district council has served a prohibition notice with respect to a nuisance and the nuisance recurs or the person on whom the notice was served fails to comply with any of the requirements of the notice, the council may make a complaint relating to the nuisance under Part IX of the Magistrates' Courts Act (Northern Ireland) 1964 (a).

(6) If on the hearing of a complaint under this Article it is proved—

- (a) that the nuisance has recurred (whether or not it still exists at the date of the hearing) or that the defendant has failed to comply with any of the requirements of the prohibition notice, and
- (b) that the nuisance is likely to recur,

the court of summary jurisdiction hearing the complaint may make an order under section 112 of the Public Health (Ireland) Act 1878 in relation to the nuisance, the requirements of the prohibition notice or both and that section shall have effect as if any reference to a nuisance or a notice to abate a nuisance were a reference to a nuisance or a prohibition notice under this Article; and the court may also exercise any other power exercisable by a court on proceedings under that section.

(7) Sections 107 to 120 and 122 to 129 of the Public Health (Ireland) Act 1878 shall, with the necessary adaptations and modifications, apply in relation to proceedings under paragraphs (5) and (6) as they apply in relation to proceedings under sections 111 and 112 of that Act.

(8) Where on the hearing of a complaint under paragraph (6) it is proved that at the date of the making of the complaint the nuisance to which the prohibition relates had recurred or that the defendant had failed to comply with any of the requirements of the notice and, in either case, that the nuisance was likely to recur, then, whether or not at the date of the hearing the failure continues or the nuisance is likely to recur, the court shall order the defendant to pay to the district council such reasonable sum as the court may determine in respect of the expenses incurred by the council in, or in connection with, the making of the complaint and the proceedings before the court.

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(a) 1964 c. 21 (N.I.).

(9) In this Article "nuisance" has the same meaning as in the Public Health (Ireland) Act 1878.

*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 Wild Birds Protection Acts (Northern Ireland) 1931 to 1968 (a).

*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 £400.

*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, the Museums and Gymnasiums Act 1891 (b) and this Order.

*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);

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(a) 1931 c. 14 (N.I.); 1950 c. 26 (N.I.); 1968 c. 5 (N.I.). (b) 1891 c. 22.



- (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.

(3) In section 98 (1) of that Act of 1972 at the end there shall be added the following paragraph—

“(c) for the purpose of determining whether, and if so in what manner, such a function should be exercised.”.

#### *Power of delegation*

75. Anything required or authorised by Articles 30 to 32 and 65 to be done by a district council may be done by an officer of the council authorised in that behalf by the council either generally or specifically.

#### *Miscellaneous*

##### *Prohibition of disclosure of information*

76.—(1) If a person discloses information relating to any trade secret used in carrying on a particular undertaking and the information has been given to him or obtained by him under this Order he shall, subject to paragraph (2), be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(2) A person shall not be guilty of an offence under paragraph (1) by virtue of the disclosure of any information if—

- (a) the disclosure is made—
  - (i) in the performance of his duty, or
  - (ii) under Article 57 (1) (b), or
  - (iii) with the consent in writing of a person having a right to disclose the information; or
- (b) the information is of a kind prescribed for the purposes of this subparagraph and, if regulations made for those purposes provide that information of that kind may only be disclosed under the regulations to prescribed persons, the disclosure is to a prescribed person.

##### *Local inquiries*

77. The Department may cause a local inquiry to be held in any case in which the Department considers it appropriate for such an inquiry to be held either in connection with a provision of this Order or with a view to preventing or dealing with pollution or noise at any place.

##### *Power of Department to assist certain projects*

78. The Department may—
- (a) undertake, or contribute towards the cost of, investigations and research relevant to the problems of waste collection and disposal; and
  - (b) arrange for the publication of information relating to those problems.

*Derelict petrol tanks*

79. In section 12 (1) of the Petroleum (Consolidation) (Northern Ireland) Act 1929 (a)—

(a) after the words “class of persons,” there shall be inserted the words “or that fixed tanks or other fixed containers which have been used for the storage of petroleum-spirit and which are no longer used for that purpose, kept on any premises, are likely to be dangerous,”;

(b) at the end of paragraph (c) there shall be added the following paragraph—

“(cc) for prescribing the steps to be taken by the occupier of premises on which a fixed tank or other fixed container which has been used for the storage of petroleum-spirit and which is no longer used for that purpose is kept for the prevention of danger from the container;”.

*Alteration of penalties*

80. The statutory provisions mentioned in Schedule 4 shall have effect subject to the amendments set out in that Schedule (which alter the penalties for the offences to which those provisions relate).

*Amendment of Public Health Acts*

81.—(1) In the provisions of the Public Health Acts (Northern Ireland) 1878 to 1967 specified in Schedule 5 for the words “injurious to health” there shall be substituted the words “prejudicial to health”.

(2) In section 2 of the Public Health (Ireland) Act 1878 there shall be inserted the following definition—

““prejudicial to health” means injurious, or likely to cause injury, to health;”.

*Adaptation of enactments to metric units*

82.—(1) The Department may by regulations amend the Alkali Act or the Clean Air Act (Northern Ireland) 1964 by substituting an amount expressed in metric units for an amount not so expressed.

(2) Any amendments made under paragraph (1) shall be such as to preserve the effect of those Acts except to such extent as in the opinion of the Department is necessary to obtain amounts expressed in convenient and suitable terms.

*Power to give effect to international agreements*

83. The Secretary of State may by order make such modifications of this Order as he considers necessary or expedient with a view to enabling effect to be given to any provision made by or under any international agreement to which the Government of the United Kingdom is for the time being a party.

*Legal proceedings*

*Miscellaneous provisions relating to legal proceedings*

84.—(1) Where a person appeals against a decision of a court of summary jurisdiction dismissing an appeal against a notice served under this Order which was suspended pending determination of that appeal, the notice shall again be suspended pending the determination of the appeal.

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(a) 1929 c. 13 (N.I.).

(2) Where the commission by any person of an offence under this Order is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of an offence under this paragraph whether or not proceedings for the offence are taken against any other person.

(3) Notwithstanding anything in section 34 of the Magistrates' Courts Act (Northern Ireland) 1964, proceedings for an offence under Article 5 (2) or (3), 18 (2), 28 or 29 may be brought at any time—

(a) in the case of an offence under Article 5 (2) or (3) or 18 (2), within one year from the date of the commission of the offence; or

(b) in the case of an offence under Article 28, within six months from the date on which the litter thrown, dumped or otherwise deposited was last found to remain upon the place into or upon which it was thrown, dumped or deposited; or

(c) in the case of an offence under Article 29, within six months from the date on which the motor vehicle or thing which formed part of a motor vehicle was last found to remain upon the land on which it was abandoned.

(4) Where an appeal against a decision of a relevant council lies to a court of summary jurisdiction under this Order, the district council shall include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies as aforesaid and specifying the time within which it must be brought.

(5) Where on an appeal to any court against or arising out of a decision of a district council under this Order the court varies or reverses the decision the council shall act in accordance with the court's decision.

(6) A judge of any court and a justice of the peace shall not be disqualified from acting in cases arising under this Order by reason of his being, as one of several ratepayers or as one of any other class of persons, liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses of a district council are to be defrayed.

#### *Civil liability for contravention of Article 5 (3)*

85.—(1) Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it or caused or knowingly permitted it to be deposited, in either case so as to commit an offence under Article 5 (3) or 18 (2) is liable for the damage except where the damage—

(a) was due wholly to the fault of the person who suffered it; or

(b) was suffered by a person who voluntarily accepted the risk thereof.

(2) The matters which under Article 5 (4) (a) to (c) may be proved by way of defence to a charge of committing an offence under Article 5 (3) may be proved also by way of defence to an action brought under paragraph (1) of this Article (the reference in the said sub-paragraph (a) to the charge being construed as a reference to the act alleged to give rise to the liability).

(3) In this Article—

“damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);

“fault” has the same meaning as in the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (a); and

“land” includes such water as is mentioned in Article 6 (4).

(4) For the purposes of the following statutory provisions, namely—

(a) the Fatal Accidents (Northern Ireland) Order 1977 (b);

(b) the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948; and

(c) the Limitation Acts (Northern Ireland) 1958 to 1976 (c),

any damage for which a person is liable under paragraph (1) shall be treated as due to his fault.

(5) Paragraph (1) is without prejudice to any liability which arises apart from the provisions of this Article.

### *Supplemental*

#### *Orders and regulations*

86.—(1) Subject to Article 18 (4), an order made by the Department under this Order and regulations made under this Order shall be subject to negative resolution.

(2) Orders made by the Department under this Order and regulations under this Order may contain incidental, supplementary and transitional provisions.

#### *Transitional provisions, amendments and repeals*

87.—(1) The statutory provisions specified in Schedule 6 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the provisions of this Order).

(2) The statutory provisions specified in Schedule 7 are hereby repealed to the extent specified in column 3 of that Schedule.

(3) The Department may by order repeal or amend any provision of any local or private Act or of any statutory instrument as defined by section 1 (c) of the Interpretation Act (Northern Ireland) 1954 if it appears to the Department that the provision is inconsistent with, or has become unnecessary or requires alteration in consequence of, any provision of this Order or corresponds to any provision repealed by this Order.

(4) An order under Article 1 may make such transitional provisions as appear to the Head of the Department to be necessary or expedient in connection with the provisions thereby brought into operation, including such adaptations of those provisions as appear to him to be necessary or expedient in consequence of the partial operation of this Order.

*N. E. Leigh,*

Clerk of the Privy Council.

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(a) 1948 c. 23 (N.I.). (b) S.I. 1977/1251 (N.I. 18).  
(c) 1958 c. 10 (N.I.); 1964 c. 1 (N.I.); S.I. 1976/1158 (N.I. 18).

## SCHEDULES

### SCHEDULE 1

Article 43 (3).

#### NOISE ABATEMENT ZONE

1. A district council shall after making any noise abatement order cause to be published in the Belfast Gazette and once at least in each of two successive weeks in one or more than one newspaper circulating in the district to which the order relates a notice—

- (a) stating that the order has been made, and its general effect;
- (b) specifying a place in the district of the district council where a copy of the order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable times during a period of not less than six weeks from the date of the last publication of the notice; and
- (c) stating that within the said period any person who will be affected by the order may by notice to the Department object to the confirmation of the order.

2. Besides publishing the notice referred to in paragraph 1, the district council which has made an order shall post, and keep posted throughout the said period, copies of the notice in such number of conspicuous places within the district to which the order relates as appear to it necessary for the purpose of bringing the making of the order to the notice of persons who will be affected.

3. If no objection is duly made to the Department within the said period, or if every objection so made is withdrawn, the Department may confirm the order (with or without modifications) or refuse to confirm the order, as the Department thinks fit.

4. If any objection duly made to the Department is not withdrawn, the Department—

- (a) may, if it thinks it necessary to do so, afford to the person who made the objection and to the district council an opportunity of appearing before and being heard by a person appointed by the Department for that purpose; and
- (b) shall consider any objection not withdrawn and, where a hearing takes place, the report of the person appointed for that purpose;

and may then confirm the order (with or without modifications) or refuse to confirm the order, as the Department thinks fit.

5. On receipt of notice that the Department has confirmed an order, the district council shall take such steps as appear to it to be suitable for bringing the confirmation of the order to the notice of persons affected by the order.

6. An order when confirmed shall, subject to paragraph 7, come into operation on such date as may be specified therein, not being a date earlier than six months from the date of the confirmation.

7. If, before the date on which an order is to come into force, the district council—

- (a) passes a resolution postponing the coming into operation thereof; and
- (b) publishes a notice stating the effect of the resolution once at least in each of two successive weeks in one or more than one newspaper circulating in the area to which the order relates;

the order shall, unless the coming into operation thereof is again postponed under this paragraph, come into operation on the date specified in the resolution.

8. A district council shall not exercise its power under paragraph 7 to postpone the coming into operation of a noise abatement order for a period of, or for periods amounting in all to, more than twelve months without the consent of the Department.

## AMENDMENT OF THE CLEAN AIR ACT (NORTHERN IRELAND) 1964 (C. 16)

## 1. For section 2 substitute the following section:—

“Prohibition of dark smoke from industrial or trade premises.

2.—(1) Subject to the following provisions of this section, dark smoke shall not be emitted from any industrial or trade premises and if, on any day, dark smoke is so emitted the occupier of the premises shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(2) Subsection (1) shall not apply to the emission of dark smoke from a chimney of a building or from any other chimney to which section 1 applies.

(3) The Department may by regulations exempt from subsection (1), subject to compliance with such conditions, if any, as may be prescribed, the emission of dark smoke caused by the burning of any prescribed matter.

(4) In proceedings for an offence under this section it shall be a defence to prove that the contravention complained of was inadvertent and that all practicable steps had been taken to prevent or minimise the emission of dark smoke.

(5) In this section “industrial or trade premises” means premises used for any industrial or trade purposes or premises not so used on which matter is burnt in connection with any industrial or trade process.”.

## 2. For section 5 substitute the following section:—

“Emission of grit and dust from furnaces.

5.—(1) The Department may by regulations prescribe limits on the rates of emission of grit and dust from the chimneys of furnaces to which this section applies.

(2) If on any day grit or dust is emitted from a chimney serving a furnace to which this section applies at a rate exceeding the relevant limit prescribed under subsection (1), the occupier of any building in which the furnace is situated shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(3) In proceedings for an offence under subsection (2) it shall be a defence to prove that the best practicable means had been used for minimising the alleged emission.

(4) If, in the case of a building containing a furnace to which this section applies and which is served by a chimney to which there is no limit applicable under subsection (1), the occupier fails to use any practicable means there may be for minimising the emission of grit or dust from the chimney, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(5) This section applies to any furnace in which solid, liquid or gaseous matter is burnt, not being a furnace designed solely or mainly for domestic purposes and used for heating a boiler with maximum heating capacity of less than 55,000 British thermal units per hour.”.

## 3. In section 6—

## (a) in subsection (1)—

- (i) at the beginning insert “Subject to section 6A (4)”;
- (ii) omit paragraph (b);

## (b) in subsection (2)—

- (i) omit paragraph (b);
- (ii) omit the words “or oven”;

- (c) in subsection (3) omit the words "or oven" and "or land";
- (d) in subsection (4) omit the words "or oven" in the three places where they occur;
- (e) in subsection (6) omit the words "or oven" and "and ovens".

4. After section 6 add the following sections:—

“Require-  
ment to fit  
arrestment  
plant to new  
furnaces.

6A.—(1) Subject to the provisions of section 6B, no furnace to which section 6 applies shall be used in a building unless the furnace is provided with plant for arresting grit and dust for which plans and specifications have been submitted to, and approved for the purposes of this section by, the district council, and that plant is properly installed, maintained and used.

(2) If on any day a furnace is used in contravention of subsection (1), the occupier of the building shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(3) Subsection (1) shall not apply to a furnace which has been installed, the installation of which has been begun, or an agreement for the purchase or installation of which has been entered into, before the commencement of this section.

(4) Section 6(2) shall not apply to a furnace to which subsection (1) applies and section 6 (5) to (8) shall apply in relation to an approval under subsection (1) as they apply in relation to an approval under section 6.

Exemptions  
from  
requirement  
to fit  
arrestment  
plant.

6B.—(1) The Department may by regulations provide that furnaces of any prescribed class shall while used for a prescribed purpose be exempted from the operation of section 6A (1).

(2) If on the application of the occupier of a building a district council is satisfied that the emission of grit and dust from any chimney serving a furnace in the building will not be prejudicial to health or a nuisance if the furnace is used for a particular purpose without compliance with section 6A (1), it may exempt the furnace from the operation of that subsection while used for that purpose.

(3) An application for exemption under subsection (2) shall be made to the district council in the prescribed form and shall be accompanied by the prescribed particulars, but the foregoing provision shall not preclude a district council from granting an exemption under that subsection on an application in writing which does not comply with the foregoing provision if the information provided by the applicant is sufficient to enable the council to determine the application.

(4) If a district council to which an application is duly made for an exemption under subsection (2) fails to determine the application and to give a written notice of its decision to the applicant within eight weeks of receiving the application or such longer period as may be agreed in writing between the applicant and the council, the furnace shall be treated as having been granted an exemption from the operation of section 6A (1) while used for the purpose specified in the application.

(5) If a district council decides not to grant an exemption under subsection (2), it shall give the applicant a written notification of its decision stating its reasons, and the applicant may within twenty-eight days of receiving the notification appeal against the decision to the Department.

(6) On an appeal under this section the Department may confirm the decision appealed against, or may grant the exemption applied for or may vary the purpose for which the furnace to which the application relates may be used without compliance with section 6A (1), and shall give the appellant a written notification of any decision of the Department on an appeal under this section, stating the reasons for the decision.

(7) If on any day a furnace which is exempt from the operation of section 6A (1) is used for a purpose other than a prescribed purpose or, as the case may be, a purpose for which the furnace may be used by virtue of subsection (2), (4) or (6), the occupier of the building shall be liable on summary conviction to a fine not exceeding £400."

5. In section 7—

(a) in subsection (1)—

(i) omit paragraph (b);

(ii) omit the words "or land" and "or oven";

(b) in subsection (2)—

(i) omit the words "or oven" in the three places where they occur and the words "or land";

(ii) in paragraph (a) for "grit and dust" substitute "grit, dust and fumes";

(c) after subsection (4) add the following subsections—

"(5) In the case of a furnace to which section 6 applies the occupier of the building in which the furnace is situate may, by notice in writing given to the district council, request the council to make and record measurements of the grit, dust and fumes emitted from the furnace.

(6) A notice given under subsection (5) by the occupier of a building may be withdrawn by a subsequent notice in writing given to the district council by him or any subsequent occupier of that building.

(7) While a notice is in force under subsection (5) the district council shall from time to time make and record measurements of the grit, dust and fumes emitted from the furnace to which the notice relates and the occupier shall not be under a duty to comply with any requirements under subsection (2) in relation to the furnace, except those imposed by virtue of paragraph (b) of that subsection.

(8) A direction under subsection (1) applying subsection (2) to a furnace shall contain a statement of the effect of subsections (5) to (7).

(9) The occupier of a building who by virtue of subsection (2) is under a duty to make and record measurements of grit, dust and fumes emitted from a furnace in the building shall permit the district council to be present during the making and recording of those measurements."

6. In section 8 (1) for "6 and 7" substitute "6, 6A, 6B and 7" and omit the words "or land" where they twice occur; "or ovens"; "or on the land" and "or subjected to any process in those ovens".

7. In section 9 (3) for "section 6 (4)" in both places where it occurs substitute "sections 6 (4) and 6A (3)".

8. In section 10 (1) after "offices" insert "or a chimney to which section 10A applies".

9. After section 10 add the following sections:—

"Height of chimneys serving a furnace.

10A.—(1) An occupier of a building shall not knowingly cause or permit a furnace therein to which this section applies to be used in the building as mentioned in section 6A (1) unless the height of the chimney serving the furnace has been approved under this section and any conditions subject to which the approval was granted are complied with, and if on any day he does so, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(2) A person having possession of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land, other than an exempted boiler or plant, shall not knowingly cause



or permit a furnace thereof to which this section applies to be used as mentioned in section 6A (1), unless the height of the chimney serving the furnace has been approved under this section and any conditions subject to which the approval was granted are complied with, and if on any day he does so, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(3) An application for approval under this section shall be made to the district council on the prescribed form and shall be accompanied by the prescribed particulars, but the foregoing provision shall not preclude the district council from granting its approval under this section on an application in writing which does not comply with the foregoing provision if the information provided by the applicant is sufficient to enable the council to determine the application.

(4) A district council shall not approve the height of a chimney under this section unless it is satisfied that its height will be sufficient to prevent, so far as practicable, the smoke, grit, dust, gases or fumes emitted from the chimney from becoming prejudicial to health or a nuisance having regard to—

- (a) the purpose of the chimney;
- (b) the position and descriptions of buildings near it;
- (c) the levels of the neighbouring ground;
- (d) any other matters requiring consideration in the circumstances.

(5) An approval of the height of a chimney by a district council under this section may be granted without qualification or subject to conditions as to the rate or quality, or the rate and quality, of emissions from the chimney.

(6) If a district council to whom an application is duly made for approval under this section fails to determine the application and to give a written notification of its decision to the applicant within two months of receiving the application or such longer period as may be agreed in writing between the applicant and the council, the approval applied for shall be deemed to have been refused.

(7) If a district council decides not to approve the height of a chimney under this section or to attach conditions to its approval, it shall give the applicant a written notification of its decision, stating its reasons and, in the case of a decision not to approve the height of the chimney, specifying the lowest height, if any, which it is prepared to approve unconditionally or the lowest height which it is prepared to approve if approval is granted subject to any specified conditions, or (if it thinks fit) both, and the applicant may within twenty-eight days of receiving the notification appeal against the decision to the Department.

(8) On an appeal under this section the Department may confirm the decision appealed against, or may approve the height of the chimney without qualification or subject to conditions as to the rate or quality, or the rate and quality, of emissions from the chimney, or may cancel any conditions imposed by the district council or substitute for any conditions so imposed any other conditions which the council had power to impose.

(9) The Department shall give the appellant a written notification of any decision on an appeal under this section, stating the reasons for the decision, and, in the case of a decision not to approve the height of a chimney, specifying the lowest height, if any, which the Department is prepared to approve unconditionally or the lowest height which the Department is prepared to approve if approval is granted subject to any specified conditions, or (if it thinks fit) both.

(10) This section applies to the following furnaces:—

- (a) any furnace served by a chimney other than a chimney the construction of which was begun or the plans for which were passed before the commencement of this section;
- (b) any furnace the combustion space of which has been increased since the commencement of this section; and
- (c) any furnace the installation of which was begun after the commencement of this section and which replaces a furnace which had a smaller combustion space;

not being a furnace forming part of a generating station as defined in the Electricity Supply (Northern Ireland) Order 1972 (a), other than a private generating station as so defined.

(11) In this section “exempted boiler or plant” means a boiler or plant which is used or to be used wholly for any prescribed purpose, and references to the applicant shall, in a case where the original applicant notifies the district council that his interest in the application has been transferred to another person, be construed as references to that other person.

Application to fumes of certain provisions as to grit and dust.

10B. The Department may by regulations—

- (a) apply all or any of the provisions of sections 5, 6A and 6B, 19 (3), 20 (4) and 22 (1) (provisions relating to grit and dust) to fumes as they apply to grit and dust; and
- (b) apply all or any of the provisions of section 3 (requirement that new furnaces shall be so far as practicable smokeless) to fumes as they apply to smoke;

subject, in either case, to such exceptions and modifications as the Department thinks expedient.”.

10. In section 11 at the end add the following subsections:—

“(12) Notwithstanding anything in paragraph 7 of Schedule 2 an order made by a district council under this section varying a previous order so as to exempt specified buildings or classes of building or specified fireplaces or classes of fireplace from the operation of this section may come into operation on, or at any time after, the date of its confirmation.

(13) A district council shall not without the consent of the Department exercise its power under paragraph 8 of Schedule 2 of postponing the coming into operation of an order under this section for a period of more than twelve months or for periods amounting in all to more than twelve months.

(14) An order made under this section before the commencement of Article 62 of the Pollution Control and Local Government (Northern Ireland) Order 1978 which would in pursuance of a resolution under the said paragraph 8 come into operation after the expiration of the year beginning with the date of that commencement shall, unless the Department otherwise directs, come into operation on the expiration of that year, and, where the Department so directs, shall come into operation on a day specified in the direction (being not later than that specified in the resolution).”

11. In section 14 (1) (c) omit “flue or”.

12. In section 17—

(a) in subsection (1) at the end of paragraph (b) add—

“or

(c) dark smoke emitted otherwise than as aforesaid from industrial or trade premises within the meaning of section 2;”;

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(a) S.I. 1972/1072 (N.I. 9).

- (b) in subsection (2), omit paragraph (a);
- (c) omit subsections (3), (4) and (5).

13. After section 17 add the following section:—

“New building over-reaching adjacent chimneys.

17A.—(1) Where after the commencement of this section—

- (a) any person erects or raises a building (in this section referred to as the “taller building”) to a greater height than an adjoining building, and
- (b) any chimneys or flues of an adjoining building are in a party wall between the two buildings or are six feet or less from the nearest part of the taller building,

the district council may by notice—

- (i) require that person, within such time as may be specified in the notice, to build up those chimneys and flues, if it is reasonably practicable so to do, so that the top thereof will be of the same height as the top of the chimneys of the taller building or the top of the taller building, whichever is the higher, and
- (ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him;

so, however that, if the said owner or occupier, within fourteen days from the date of service of the notice on him, serves on the first-mentioned person and on the district council a notice (in this section referred to as a “counter-notice”) that he elects to carry out the work himself, the owner or occupier shall comply with the notice served under paragraph (i) instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from that person.

(2) Any person on whom a notice is served under subsection (1) (i) or (ii) may appeal to a court of summary jurisdiction.

(3) If—

- (a) any person on whom a notice is served under subsection (1) (i) fails to comply with the notice, except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building, or has refused to allow the carrying out of any such work as may be necessary to comply with the notice, or has served a counter-notice, or
- (b) any person on whom a notice is served under subsection (1) (ii) fails to comply with the notice or, having served a counter-notice, fails to comply with the notice served under subsection (1) (i),

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20; and the district council may itself carry out such work as may be necessary to comply with the notice served under the said subsection (1) (i), and recover the expenses reasonably incurred in so doing from the person on whom that notice was served.”.

14. In section 20 (1) for “Sections 1 and 2” substitute “Section 1”; and for “they apply” substitute “it applies”.

15. In section 21 (1) for paragraph (c) substitute—

- “(c) any premises from the operation of section 2;
- (d) any furnace from the operation of sections 6, 6A and 7”.

16. In section 24—
- (a) omit paragraphs (a) and (b);
  - (b) in paragraph (c) for “that problem” substitute “the problem of the pollution of the air”.
17. In section 32 omit “manufacturing process or”.
18. In section 33—
- (a) for “section 1” in the two places where it occurs substitute “sections 1 and 2”;
  - (b) in subsection (1) for “within forty-eight hours after” substitute “before the end of the four days next following the day on which”;
  - (c) in subsection (2) after “two days” insert “or, in the case of an offence committed after the commencement of Article 62 of the Pollution Control and Local Government (Northern Ireland) Order 1978, four days”.
19. In section 35—
- (a) in subsection (1)—
    - (i) for “ten pounds” (which fine has effect as if it were £20 under Part I of the Schedule to the Increase of Fines Act (Northern Ireland) 1967 (a)) substitute “£100”;
    - (ii) for “one hundred pounds” substitute “£400 or, in the case of an offence under that section as applied by section 20 to vessels, £1,000”;
  - (b) in subsection (2) for “ten pounds” (which fine has effect as if it were £20 under Part I of the Schedule to that Act of 1967) substitute “£100”;
  - (c) in subsection (3) for the words from “one hundred pounds” onwards substitute “£400”;
  - (d) in subsection (4) for “one hundred pounds” substitute “£400”;
  - (e) in subsection (5) for “one hundred pounds” substitute “£400” and for “twenty pounds” substitute “£50”.
20. In section 43—
- (a) in subsection (1)—
    - (i) in the definition of “chimney” for the words from “or (where” to “emitted” substitute “grit, dust or fumes may be emitted and, in particular, includes flues”;
    - (ii) after the definition of “fireplace” insert following definition:—  
““fumes” means any airborne solid matter smaller than dust;”;
    - (iii) omit the definition of “oven”;
  - (b) in subsection (2) for “1 or section” substitute “1, 2 or”;
  - (c) in subsection (6) for “6 to 8” substitute “5 to 8 and 10A”.
21. In Schedule 3—
- (a) in the table set out in paragraph 1 omit the entries relating to sections 3 (2) and 8 (5) of the Alkali, &c. Works Regulation Act 1906;
  - (b) omit paragraph 4.

## AMENDMENT OF THE WATER ACT (NORTHERN IRELAND) 1972 AND THE WATER AND SEWERAGE SERVICES (NORTHERN IRELAND) ORDER 1973

*The Water Act (Northern Ireland) 1972 (c. 5).*

## 1. After section 4 (4) insert the following subsection—

“(4A) Where the place of a member becomes vacant before the expiration of his term of office, the vacancy shall be filled by appointment by the Ministers and any person so appointed shall—

- (a) hold office for the remainder of the term of the former member;
- (b) be eligible for reappointment.”.

## 2. In section 9 (2) at the end add “and that person may, within twenty-eight days from the date of the service of the notice, appeal to the Appeals Commission.”.

## 3. In section 13—

## (a) for subsection (6) substitute—

“(6) Where it appears to the Department that any poisonous, noxious or polluting matter or any solid waste matter, other than matter discharged in accordance with any consent under section 7 or 8, is likely to enter, or is or was present in, any waterway or water contained in underground strata (relevant waters), the Department may carry out such operations as it considers appropriate—

- (a) in a case where the matter appears likely to enter the relevant waters, for the purpose of preventing it from doing so; and
- (b) in a case where the matter appears to be or to have been present in the relevant waters, for the purpose of removing or disposing of the matter or of remedying or mitigating any pollution caused by its presence in the waters or of restoring the waters (including the fauna and flora in them), so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters.”;

## (b) omit subsection (7).

*The Water and Sewerage Services (Northern Ireland) Order 1973  
S.I. 1973/70 (N.I. 2).*

## 4. In Article 11—

(a) in paragraph 3 (b) for “section 8 of the Water Supplies and Sewerage Act (Northern Ireland) 1945” substitute “section 22 of the Local Government Act (Northern Ireland) 1934”;

(b) in paragraph (4) for “is first given” substitute “is given for the second time”.

## 5. In Article 36—

(a) in paragraph (1) for sub-paragraph (c) substitute the following sub-paragraphs—

- “(c) providing for the conveyance of water by any means specified in the order;
- (d) prohibiting or restricting the use of water for any purpose;
- (e) prohibiting or restricting the means by which water is used for any purpose”;

(b) after paragraph (1) insert the following paragraph—

“(1A) An order under paragraph (1) (c) may provide that Article 13 (2) and (3) shall not apply to any works carried out for the purposes of the order.”.

## 6. In Article 50 (1) at the end add—

“(h) taking away for analysis samples of water”.

7. In Article 51 (1) after “Article 50” insert “(other than a sample taken under paragraph (1) (h) of that Article)”.

Article 80.

SCHEDULE 4

ALTERATION OF PENALTIES

*The Public Health (Ireland) Act 1878 (c. 52)*

1. In section 112 of the Public Health (Ireland) Act 1878 (failure to abate or to remove danger of recurrence of nuisance) for "five pounds" (which fine has effect as if it were £20 under Part I of the Schedule to the Increase of Fines Act (Northern Ireland) 1967) substitute "£200".

2. In section 114 of that Act of 1878 (contravention, etc., of nuisance order, including a smoke nuisance order) for "ten shillings per day during his default" and "twenty shillings per day during such contrary action" (which fines have effect as if they were £50 and £5 for each day the offence continues after conviction therefor under Part I of the Schedule to that Act of 1967) substitute "£400 and where a person is guilty of an offence against this section within one year after the conviction he shall be guilty of a further offence and shall be liable, in addition to that fine, to a fine not exceeding £50 for every day subsequent to the day on which he is first convicted of an offence under this section on which this section is contravened".

*The Alkali, &c. Works Regulation Act 1906 (c. 14)*

3. In section 12 (4) of the Alkali, &c. Works Regulation Act 1906 (obstruction of an inspector) for "ten pounds" substitute "£100".

4. In section 16A of that Act (penalties for certain offences) for "one hundred pounds" in both places where it occurs substitute "£1,000" and for "twenty pounds" substitute "£50".

*The Radioactive Substances Act 1960 (c. 34)*

5. In section 13 of the Radioactive Substances Act 1960 (keeping radioactive material and disposing of waste)—

- (a) in subsection (2) for "one hundred pounds" substitute "£1,000";
- (b) in subsection (4) for "fifty pounds" substitute "£1,000";
- (c) in subsection (5) for the words from "fifty pounds" onwards substitute "£100 and on conviction on indictment to a fine";
- (d) in subsection (6) for "ten pounds" substitute "£20".

Article 81 (1).

SCHEDULE 5

PROVISIONS OF THE PUBLIC HEALTH ACTS (NORTHERN IRELAND) 1878 TO 1967 IN WHICH "PREJUDICIAL TO HEALTH" IS SUBSTITUTED FOR "INJURIOUS TO HEALTH"

1. The Public Health (Ireland) Act 1878 (c. 52).

Section 50.

Section 51.

Section 54.

Section 79.

Section 107.

Schedule C, Forms A and C.

2. The Public Health Acts Amendment Act 1907 (c. 53).

Section 34.

Section 35.

Section 45.

SCHEDULE 6

Article 87 (1).

AMENDMENTS

*The Housing of the Working Classes Act 1885 (c. 72)*

1. In section 9 (1) of the Housing of the Working Classes Act 1885 for "injurious" in the three places where it occurs substitute "prejudicial".

*The Public Health Acts Amendment Act 1890 (c. 59)*

2. In section 11 (1) of the Public Health Acts Amendment Act 1890 for "faecal matter or refuse" substitute "or faecal matter".

*The Alkali, &c. Works Regulation Act 1906 (c. 14)*

3.—(1) In Schedule 1 to the Alkali, &c. Works Regulation Act 1906 (as set out in the Alkali, &c. Works Order (Northern Ireland) 1977 (a)) at the end add—

"(61) Smelting works, that is to say works in which sulphide ores are calcinated or smelted."

(2) The power under section 18 (9) (b) of the Clean Air Act (Northern Ireland) 1964 to vary or add to the list of works mentioned in that Schedule 1 shall apply to that Schedule as amended by sub-paragraph (1).

*The Public Health Acts Amendment Act 1907 (c. 53)*

4. In section 94 of the Public Health Acts Amendment Act 1907—

(a) in subsection (1) for "boatmen or persons assisting in the charge of navigation of" substitute "persons in charge of or navigating";

(b) in subsection (3) for the words from "a vessel not" onwards substitute "or a vessel unless—

(a) the boat or vessel is so licensed and the licence is not suspended; and

(b) the person in charge of the boat or vessel and any other person navigating it is so licensed and his licence is not suspended and the conditions of his licence are complied with.";

(c) in subsection (4) at the end add "or for a person in charge for navigating such a boat or vessel";

(d) in subsection (6) at the end add "so, however, that a person shall not be guilty of an offence under this subsection by reason of his failure to comply with such conditions as are mentioned in subsection (3) (b) if it is shown that there is reasonable excuse for the failure".

*The Hovercraft Act 1968 (c. 59)*

5. In section 1 (1) (g) of the Hovercraft Act 1968 after "Control of Pollution Act 1974" insert "or of Part III of the Pollution Control and Local Government (Northern Ireland) Order 1978".

SCHEDULE 7

Article 87 (2).

REPEALS

Chapter	Short Title	Extent of Repeal
35 & 36 Vict. c. 61.	The Steam Whistles Act 1872.	The whole Act.
41 & 42 Vict. c. 52.	The Public Health (Ireland) Act 1878.	Sections 52 and 53.  In section 54 the words from "where the sanitary authority" to "any such premises".  Sections 55, 59 and 60.

(a) S.R. 1977 No. 152.

Chapter	Short Title	Extent of Repeal
53 & 54 Vict. c. 59.	The Public Health Acts Amendment Act 1890.	Sections 26 (2) and 38.
6 Edw. 7 c. 14.	The Alkali, &c. Works Regu- lation Act 1906.	<p>Sections 3, 4, 5 and 8.</p> <p>In section 9 (1) the words "a cement work, or a smelting work".</p> <p>In section 11 (b) the words "or with the treatment of alkali waste".</p> <p>Sections 12 (1) (d), 14, 15 and 17.</p> <p>In section 18, in subsection (1), the words "other than an offence against a special rule" and subsection (4).</p> <p>Section 19.</p> <p>In section 20 the words "other than an offence against a special rule".</p> <p>In section 22 (1) the words "or that any alkali waste is deposited or discharged (either within or without the district) in contravention of this Act,".</p>
1960 c. 23.	The Litter Act (Northern Ireland) 1960.	The whole Act.
8 & 9 Eliz. 2 c. 34.	The Radioactive Substances Act 1960.	In Part III of Schedule 1, paragraph 18; in paragraph 21 the words "fifty-four," and "fifty-nine" and paragraphs 23 and 25.
1964 c. 16.	The Clean Air Act (Northern Ireland) 1964.	<p>In section 6, in subsection (1), paragraph (b); in subsection (2), paragraph (b) and the words "or oven"; in subsection (3) the words "or oven" and "or land"; in subsection (4) the words "or oven" in the three places where they occur and in subsection (6) the words "or oven" and "and ovens".</p> <p>In section 7, in subsection (1), paragraph (b) and the words</p>



Chapter	Short Title	Extent of Repeal
1964 c. 16.	The Clean Air Act (Northern Ireland) 1964— <i>cont.</i>	<p>“or land” and “or oven” and in subsection (2) the words “or oven” in the three places where they occur and “or land”.</p> <p>In section 8 (1) the words “or land” where they twice occur; the words “or ovens” “or on the land” and “or subjected to any process in those ovens”.</p> <p>In section 14 (1) (c) the words “flue or”.</p> <p>In section 17, subsections (3), (4) and (5).</p> <p>In section 24, paragraphs (a) and (b).</p> <p>In section 32 the words “manufacturing process or”.</p> <p>In section 43 (1) the definition of “oven”.</p> <p>In Schedule 3, in the table set out in paragraph 1, the entries relating to sections 3 (2) and 8 (5) of the Alkali, &amp;c. Works Regulation Act 1906 and paragraph 4.</p>
1967 c. 29.	The Increase of Fines Act (Northern Ireland) 1967.	In Part I of the Schedule the entries relating to sections 112 and 114 of the Public Health (Ireland) Act 1878; the entries relating to the Litter Act (Northern Ireland) 1960 and the entries relating to the Clean Air Act (Northern Ireland) 1964.
1969 c. 14.	The Motor Vehicles and Refuse (Disposal) Act (Northern Ireland) 1969.	The whole Act.
1972 c. 5.	The Water Act (Northern Ireland) 1972.	Section 13 (7).

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order provides for:—

- (a) the preparation by district councils of waste disposal plans, the licensing of waste disposal sites by district councils, and the recycling of waste;
- (b) special arrangements for the disposal of dangerous waste;
- (c) the updating and consolidation of the law relating to the collection and disposal of waste, street cleaning, litter prevention and the removal of abandoned motor vehicles;
- (d) the control of noise nuisances generally and specifically the control of noise on construction sites, in streets and from plant and machinery;
- (e) the designation of noise abatement zones;
- (f) the regulation of the sulphur content of oil fuel for furnaces and engines, the provision of information about atmospheric pollution and the amendment of the Clean Air Act (Northern Ireland) 1964 in relation to atmospheric pollution from industrial and trade premises and from furnaces;
- (g) the amendment of the Water Act (Northern Ireland) 1972 in relation to the filling of vacancies on the Water Council and the right of appeal under section 9 (2) to the Water Appeals Commission, for the restocking of rivers which have been affected by pollution;
- (h) the amendment of the Water and Sewerage Services (Northern Ireland) Order 1973 in relation to the control of water usage in drought situations;
- (i) the exercise by district councils of miscellaneous functions relating to danger to public health or public safety e.g. pleasure fairs.



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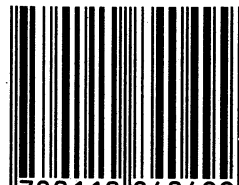
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