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STATUTORY INSTRUMENTS

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**1994 No. 1896**

**The Litter (Northern Ireland) Order 1994**

Summary proceedings to deal with litter

**Summary proceedings by persons aggrieved by litter**

**11.**—(1) A court of summary jurisdiction may act under this Article on a complaint made by any person on the ground that he is aggrieved by the defacement, by litter, of—

- (a) any road;
- (b) any relevant land of a district council;
- (c) any relevant Crown land;
- (d) any relevant land of a designated statutory undertaker;
- (e) any relevant land of a designated educational institution; or
- (f) any relevant land within a litter control area of a district council.

(2) A court of summary jurisdiction may also act under this Article on a complaint made by any person on the ground that he is aggrieved by the want of cleanliness of any road.

(3) A district council shall not be treated as a person aggrieved for the purposes of proceedings under this Article.

(4) Proceedings under this Article shall be brought against the person who has the duty to keep the road or land clear under Article 7(1) or to keep the road clean under Article 7(2), as the case may be.

(5) Before instituting proceedings under this Article against any person, the complainant shall give to the person not less than 5 days written notice of his intention to make the complaint and the notice shall specify the matter complained of.

(6) If the court is satisfied that the road or land in question is defaced by litter or, in the case of a road, is wanting in cleanliness, the court may, subject to paragraphs (7) and (8), make an order (“a litter abatement order”) requiring the defendant to clear the litter away or, as the case may be, clean the road within a time specified in the order.

(7) The court shall not make a litter abatement order if the defendant proves that he has complied, as respects the road or land in question, with his duty under Article 7(1) and (2).

(8) The court shall not make a litter abatement order where it appears that the matter complained of is the result of directions given to the district council under Article 8(2) by the Department.

(9) A person who, without reasonable excuse, fails to comply with a litter abatement order shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(10) If in the case of a continuing offence under paragraph (9), the offender continues to fail to comply with the litter abatement order after the conviction, he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-twentieth of level 4 on the standard scale for each day on which the offence is continued.

(11) In any proceedings for an offence under paragraph (9) or (10) it shall be a defence for the defendant to prove that he has complied, as respects the road or land in question, with his duty under Article 7(1) and (2).

(12) A code of practice under Article 9(1) shall be admissible in evidence in any proceedings under this Article and if any provision of such a code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.

(13) Where a court of summary jurisdiction is satisfied on the hearing of a complaint under this Article—

- (a) that, when the complaint was made to it, the road or land in question was defaced by litter or, as the case may be, was wanting in cleanliness, and
- (b) that there were reasonable grounds for bringing the complaint,

the court shall order the defendant to pay such reasonable sum to the complainant as the court may determine in respect of the expenses incurred by the complainant in bringing the complaint and the proceedings before the court.

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

12.—(1) Where a district council is satisfied as respects—

- (a) any relevant Crown land,
- (b) any relevant land of a designated statutory undertaker,
- (c) any relevant land of a designated educational institution, or
- (d) any relevant land within a litter control area of a district council,

that it is defaced by litter or that defacement of it by litter is likely to recur, the council shall serve a notice (“a litter abatement notice”) imposing either the requirement or the prohibition or both the requirement and the prohibition specified in paragraph (2).

(2) The requirement and prohibition referred to in paragraph (1) are—

- (a) a requirement that the litter be cleared within a time specified in the notice;
- (b) a prohibition on permitting the land to become defaced by litter.

(3) The litter abatement notice shall be served—

- (a) as respects relevant Crown land, on the appropriate authority;
- (b) as respects relevant land of a designated statutory undertaker, on the undertaker;
- (c) as respects relevant land of a designated educational institution, on the governing body of the institution;
- (d) in any other case, on the occupier of the land or, if it is unoccupied, on the owner of the land.

(4) The person served with the notice may appeal against the notice to a court of summary jurisdiction within the period of 21 days from the date on which the notice was served.

(5) If, on any appeal under paragraph (4), the appellant proves that, as respects the land in question, he has complied with his duty under Article 7(1), the court shall allow the appeal.

(6) If a person on whom a litter abatement notice is served, without reasonable excuse, fails to comply with or contravenes the requirement or prohibition imposed by the notice, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If in the case of a continuing offence under paragraph (6), the offender continues to fail to comply with or contravenes the requirement or prohibition imposed by the notice, he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-twentieth of level 4 on the standard scale for each day on which the offence is continued.

(8) In any proceedings for an offence under paragraph (6) or (7) it shall be a defence for the person charged to prove that he has complied, as respects the land in question, with his duty under Article 7(1).

(9) A code of practice under Article 9(1) shall be admissible in evidence in any proceedings under this Article and if any provision of such a code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.

(10) If a person on whom a litter abatement notice is served fails to comply with the requirement imposed by the notice in respect of any land, the district council may, subject to paragraph (11)—

- (a) enter on the land and clear the litter; and
- (b) recover from that person the expenditure attributable to the council having done so, except such of the expenditure as that person shows was unnecessary in the circumstances.

(11) Paragraph (10) does not apply in relation to relevant Crown land or relevant land of statutory undertakers.