

STATUTORY INSTRUMENTS

1994 No. 1896

The Litter (Northern Ireland) Order 1994

Miscellaneous

Public registers

15.—(1) Each district council shall maintain in accordance with this Article, a register containing copies of—

- ^{F1}(a)
- (b) all street litter control notices issued under Article 13(1)^{F2} and
- (c) all orders made by the district council under paragraph 2(1) of Schedule 1A.]

(2) Where the requirements of a street litter control notice are varied or added to on an appeal under Article 14(7) a copy of the order making the variation or addition shall be included in the register.

(3) Copies of the orders and notices required to be kept in the register shall be so kept for so long as the order or notice is in force.

- (4) Each district council shall—
 - (a) secure that the register maintained under this Article is available, at all reasonable times, for inspection by the public free of charge; and
 - (b) afford to members of the public facilities for obtaining copies of the documents kept in the register, on payment of reasonable charges.
- (5) A register under this Article need not be kept in documentary form.

F1 Art. 15(1)(a) repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, [Sch. 4 Pt. 2](#); S.R. 2012/13, Sch. 2

F2 Art. 15(1)(c) and word inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, [Sch. 3 para. 3\(5\)](#); S.R. 2012/13, Sch. 2

Abatement of litter

16.—(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) The Department may with the consent of the Department of Finance and Personnel make grants to any body for the purpose of assisting the body to encourage the public not to deface places by litter.

Application of^{F3} Waste and Contaminated Land (Northern Ireland) Order 1997]

17.—(1) This Article applies to litter collected—

- (a) by any district council or person under Article 7(1);
- (b) by a district council under Article 12(10)^{F4} or Article 12C(3)]; or
- (c) by any person under Article 13.

(2) Regulations may provide that the provisions of^{F3} Waste and Contaminated Land (Northern Ireland) Order 1997] shall have effect, with such modifications (if any) as may be prescribed in the regulations—

- (a) as if references to controlled waste or controlled waste of a prescribed description included references to litter to which this Article applies or any description of such litter;
- (b) as if references to controlled waste or controlled waste of a prescribed description collected under Article^{F3} 20] of that Order included references to litter collected as mentioned in paragraph (1) or any description of such litter.

(3) The powers conferred by this Article are exercisable in relation to litter to which it applies whether or not the circumstances are such that the litter would be treated as controlled waste apart from this Article and this Article is not to affect the interpretation of the expressions defined in Article^{F3} 2] of that Order.

F3 1997 NI 19

F4 Words in art. 17(1)(b) inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 3 para. 3\(6\)](#); S.R. 2012/13, Sch. 2

Transitional provision relating to Article 7

18. For the purposes of the transition to the duties imposed by Article 7 on district councils, regulations may make provision—

- (a) modifying that Article, or
- (b) modifying Part II of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992^{F5} (competition rules for functional work or works contracts).

F5 1992 NI 6

^{F6}Fixed penalty notices: supplementary

18A.—(1) The Department may by regulations make provision in connection with the powers conferred under—

- (a) Article 6(6A)(a) and (7);
- (b) Article 14A(4)(a) and (5);
- (c) paragraph 7(4)(a) and (5) of Schedule 1A.

(2) Regulations under paragraph (1) may (in particular)—

- (a) require an amount specified under Article 6(6A)(a) or 14A(4)(a) or paragraph 7(4)(a) of Schedule 1A to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, a district council may make provision under Article 6(7) or 14A(5) or paragraph 7(5) of Schedule 1A.
- (3) The Department may by order substitute a different amount for the amount for the time being specified in Article 6(6A)(b) or 14A(4)(b) or paragraph 7(4)(b) of Schedule 1A.]

F6 Art. 18A inserted (18.1.2012 for specified purposes, otherwise 1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), **ss. 22, 78**; S.R. 2012/13, Sch. 1, Sch. 2

[^{F7}Exclusion of liability

18B.—(1) None of the persons mentioned in paragraph (2) shall have any liability to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of the power in Article 12(10), 12A(9) or 12C(3).

(2) Those persons are—

- (a) a district council and any employee of a district council; and
- (b) in the case of the power in Article 12C(3), any person authorised by the district council under that provision and the employer or any employee of that person.

(3) Paragraph (1) does not apply—

- (a) if the act or omission is shown to be in bad faith;
- (b) to liability arising out of a failure to exercise due care and attention;
- (c) so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.

(4) This Article does not affect any other exemption from liability (whether at common law or otherwise).]

F7 Art. 18B inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), **ss. 23, 78**; S.R. 2012/13, Sch. 2

Powers in relation to abandoned shopping and luggage trolleys

19.—(1) A district council may, subject to paragraph (3), resolve that Schedule 1 is to apply in its district; and if a council does so resolve, that Schedule shall come into operation in its district on the day specified in the resolution, which must not be less than the period of 3 months from the day on which the resolution is passed.

(2) A district council shall publish in at least one newspaper circulating in its district a notice that the council has passed a resolution under this Article and indicating the general effect of that Schedule.

(3) A district council shall, before making any resolution for the application of Schedule 1 in its district, consult with the persons or representatives of persons who appear to the council to be persons who will be affected by the application of that Schedule.

(4) The district council shall consult about the operation of Schedule 1 with the persons or representatives of persons who appear to be affected by its operation.

Power of district councils to obtain information

20.—(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) Regulations may restrict the information which may be required under paragraph (1) and determine 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 level 4 on the standard scale.

Power of entry

21. The power conferred on a person authorised in writing by a district council by section 98 of the Local Government Act (Northern Ireland) 1972^{F8} to enter any land includes power to enter any land for the purpose of determining whether any provision of this Order or of any regulation made under this Order is being complied with.

F8 1972 c. 9 (NI)
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Local inquiries

22. 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 in connection with a provision of this Order.

Miscellaneous provisions relating to legal proceedings

23.—(1) 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.

(2) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981^{F9}, proceedings for an offence under Article 3 may be brought at any time within 6 months from the date on which the litter deposited was last found to remain upon the place into or upon which it was deposited.

(3) Where on an appeal to a court of summary jurisdiction against 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.

F9 1981 NI 26

Application to Crown

24.—(1) Subject to the provisions of this Article, the provisions of this Order and of regulations and orders made under it shall bind the Crown including the Crown in right of Her Majesty's Government in the United Kingdom.

(2) No contravention by the Crown of any provision of this Order or of any regulations or order made under it shall make the Crown criminally liable; but the High Court may, on the application of a district council, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of this Order and of regulations and orders made under it shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this paragraph “Crown premises” means premises held or used by or on behalf of the Crown.

Regulations, orders and directions

25.—(1) [^{F10}Subject to paragraph (1A),] regulations and orders made by the Department under this Order shall be subject to negative resolution.

[^{F11}(1A) An order under Article 18A(3) shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.]

(2) Any direction given under this Order shall be in writing and may be varied or revoked by subsequent directions.

F10 Words in art. 25(1) inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 3 para. 3\(7\)\(a\)](#); S.R. 2012/13, Sch. 2

F11 Art. 25(1A) inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), s. 78, Sch. 3 para. 3\(7\)\(b\)](#); S.R. 2012/13, Sch. 2

Article 26—Repeals

Changes to legislation:

There are currently no known outstanding effects for the The Litter (Northern Ireland) Order 1994, Miscellaneous.