



## 2011 CHAPTER 23

### **PART 2**

#### **VEHICLES**

##### *Abandoned vehicles*

#### **Offence of abandoning a vehicle: fixed penalty notices**

7 In the Pollution Control and Local Government (Northern Ireland) Order 1978, after Article 29 (offence of unauthorised abandonment of motor vehicles etc.) insert—

#### **“Fixed penalty notices for offence of abandoning vehicles**

**29A.**—(1) Where on any occasion it appears to an authorised officer of a district council that a person has committed an offence under Article 29(1) (a) in the district of that council, the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the district council.

(2) Where a person is given a notice under this Article in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of the period of 14 days following the date of that notice; and
- (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of the period.

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*Changes to legislation: There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Cross Heading: Abandoned vehicles. (See end of Document for details)*

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(3) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(4) A notice under this Article shall also state—

- (a) the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in paragraph (4)(c) at the address so mentioned.

(6) Where a letter is sent in accordance with paragraph (5) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) The form of a notice under this Article shall be such as the Department may by order prescribe.

(8) The fixed penalty payable to a district council under this Article is, subject to paragraph (9), £200.

(9) The Department may by order substitute a different amount for the amount for the time being specified in paragraph (8).

(10) The district council to which a fixed penalty is payable under this Article may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the council.

(11) The Department may by regulations restrict the extent to which, and the circumstances in which, a district council may make provision under paragraph (10).

(12) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the clerk of the council, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(13) In this Article—

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

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

#### **Fixed penalty notices: power to require name and address**

**29B.**—(1) If an authorised officer of a district council proposes to give a person a notice under Article 29A, the officer may require the person to give him his name and address.

(2) A person commits an offence if—

- (a) he fails to give his name and address when required to do so under paragraph (1), or
- (b) he gives a false or inaccurate name or address in response to a requirement under that paragraph.

(3) A person guilty of an offence under paragraph (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) In this Article “authorised officer” has the same meaning as in Article 29A.

#### **Use of fixed penalties under Article 29A**

**29C.**—(1) This Article applies in relation to amounts paid to a district council in pursuance of notices under Article 29A (its “fixed penalty receipts”).

(2) A district council may use its fixed penalty receipts only for the purposes of—

- (a) its functions under this Part;
- (b) its functions under Part 8 of the Road Traffic Regulation (Northern Ireland) Order 1997;
- (c) its functions relating to the enforcement of sections 2 and 3 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011; and
- (d) such other of its functions as may be specified in regulations made by the Department.

(3) Regulations made under paragraph (2)(d) may in particular have the effect that a district council may use its fixed penalty receipts for the purposes of any of its functions.

(4) A district council shall supply the Department with such information relating to its use of its fixed penalty receipts as the Department may require.

(5) The Department may by regulations—

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- (a) make provision for what a district council is to do with its fixed penalty receipts—
  - (i) pending their being used for the purposes of functions of the council referred to in paragraph (2);
  - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
- (b) make provision for accounting arrangements in respect of a district council's fixed penalty receipts.

(6) The provision that may be made under paragraph (5)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Department) other than the district council.

(7) Before making regulations under this Article, the Department shall consult—

- (a) district councils;
- (b) such other persons as the Department thinks fit.”.

#### Commencement Information

- I1** S. 7 in operation at 18.1.2012 for specified purposes by S.R. 2012/13, art. 2(1), Sch. 1
- I2** S. 7 in operation at 1.4.2012 in so far as not already in operation by S.R. 2012/13, art. 2(2), Sch. 2

#### Notice of removal of vehicle by district council

**8.**—(1) Article 30 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19) (removal of abandoned vehicles) shall be amended as follows.

(2) For paragraph (2) substitute—

“(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 that person notice that it proposes to remove the vehicle 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.

(2A) Paragraph (2) does not apply where the vehicle is abandoned on a road.

(2B) 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.”.

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(3) Omit paragraph (3).

(4) In paragraph (4) omit the words from “other than” to “paragraph (3)”.

**Commencement Information**

**I3** S. 8 in operation at 18.1.2012 for specified purposes by [S.R. 2012/13, art. 2\(1\)](#), [Sch. 1](#)

**I4** S. 8 in operation at 1.4.2012 in so far as not already in operation by [S.R. 2012/13, art. 2\(2\)](#), [Sch. 2](#)

**Disposal of removed vehicle by district council**

**9.**—(1) The Pollution Control and Local Government (Northern Ireland) Order 1978 shall be amended as follows.

(2) In Article 31 (disposal of removed vehicles), in paragraph (1)—

(a) for sub-paragraphs (a) and (b) substitute—

“(a) in the case of a vehicle which in the opinion of the district council is in such a condition that it ought to be destroyed, at any time in the course of or after its removal;

(b) in the case of a vehicle, not falling within sub-paragraph (a), which—

(i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and

(ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom),

at any time in the course of or after its removal;”;

(b) omit the words from “but, in a case” to the end.

(3) Omit paragraph (2) of Article 31.

(4) In Article 36(1) (interpretation, etc., of Part 2), in the definition of “licence” after the words “the Vehicle Excise and Registration Act 1994” insert “(including a nil licence within the meaning of that Act)”.

**Commencement Information**

**I5** S. 9 in operation at 1.4.2012 by [S.R. 2012/13, art. 2\(2\)](#), [Sch. 2](#)

**Guidance**

**10** In the Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19), after Article 31 (disposal of removed vehicles) insert—

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**Changes to legislation:** *There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Cross Heading: Abandoned vehicles. (See end of Document for details)*

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### “Guidance

**31A** A district council in exercising any function conferred under Article 30 or 31 shall have regard to any guidance given for the purpose by the Department.”.

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#### Commencement Information

**I6** S. 10 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), Sch. 2

**Changes to legislation:**

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