



2011 CHAPTER 23

PART 8

MISCELLANEOUS AND SUPPLEMENTARY

*Use of fixed penalty receipts*

**Use of penalty receipts**

**72.—**(1) This section applies in relation to amounts paid to a district council in pursuance of—

- (a) notices under Article 6 and Article 14A of, and paragraph 7 of Schedule 1A to, the [Litter \(Northern Ireland\) Order 1994 \(NI 10\)](#);
- (b) notices under section 26;
- (c) notices under section 43.

(2) The amounts to which this section applies which are paid to a district council are in this section called the council's "fixed penalty receipts".

(3) A district council may use its fixed penalty receipts only for the purposes of qualifying functions of the council.

(4) For the purposes of this section the "qualifying functions" of a council are—

- (a) its functions under the [Litter \(Northern Ireland\) Order 1994](#);
- (b) its functions under section 26;
- (c) its functions under Part 5; and
- (d) such other of its functions as may be specified in regulations made by the Department.

(5) Regulations under subsection (4)(d) may (in particular) have the effect that a council may use its fixed penalty receipts for the purposes of any of its functions.

(6) A district council must supply the Department with such information relating to its fixed penalty receipts as the Department may require.

(7) The Department may by regulations—

(a) make provision for what a council is to do with its fixed penalty receipts—

(i) pending their being used for the purposes of qualifying functions of the council;

(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 council's fixed penalty receipts.

(8) The provision that may be made under subsection (7)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Department) other than the council.

(9) Before making regulations under this section, the Department must consult—

(a) district councils;

(b) such other persons as the Department thinks fit.

#### *Increase of penalty for pollution offences*

#### **Offences relating to pollution etc.: penalties on conviction**

73. In paragraph 25 of Schedule 1 to the [Environment \(Northern Ireland\) Order 2002 \(NI 7\)](#) (purposes for which regulations may be made under Article 4: offences), in sub-paragraph (2)(a)(ii) for the words “£30,000” substitute “£50,000”.

#### *Offences by bodies corporate*

#### **Offences by bodies corporate**

74. For the purposes of this Act, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

### *Supplementary*

#### **Regulations and orders**

**75.**—(1) Orders and regulations made by the Department under this Act may include such incidental, supplementary, consequential, transitory, transitional or saving provisions as the Department considers appropriate.

(2) Subject to subsections (3), (4) and (5), orders and regulations made by the Department under this Act shall be subject to negative resolution.

(3) An order under—

- (a) section 4(9),
- (b) section 27(5),
- (c) section 44(6), or
- (d) section 53(6),

shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.

(4) Regulations under section 40(4) and section 41(1) shall not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(5) Subsection (2) does not apply to an order under section 78 or an order under paragraph 5 of Schedule 2.

#### **Interpretation**

**76.** In this Act—

“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 (c. 9);

“the Department” means the Department of the Environment;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

#### **Minor and consequential amendments and repeals**

**77.**—(1) The statutory provisions set out in Schedule 3 have effect subject to the amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 4 are repealed to the extent specified in the second column of that Schedule.

(3) The Department may by order repeal or amend any provision of any local Act passed before this Act or of any order or other instrument made under a local Act so passed if it appears to it that the provision is inconsistent with, or

has become unnecessary or requires alteration in consequence of, any provision of this Act or corresponds to any provision repealed by this Act.

### **Commencement**

**78.** The provisions of this Act, except for this section and sections 75, 76 and 79, come into operation on such day or days as the Department may by order appoint.

### **Short title**

**79.** This Act may be cited as the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.