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STATUTORY INSTRUMENTS

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**1981 No. 158**

**Clean Air (Northern Ireland) Order 1981**

Miscellaneous

**Recovery of expenses**

**33.**—(1) Any expenses recoverable by a district council under Article 14 or 18, together with interest on those expenses from the date on which a demand for the expenses is served on the person from whom they are recoverable, may be recovered by the district council summarily as a civil debt from that person.

(2) Where a district council claim to recover any expenses under Article 18 from a person as being the owner of the private dwelling in respect of which the expenses were incurred and that person proves that he—

- (a) is receiving the rent of the dwelling merely as agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the district council;

his liability shall be limited to the total amount of the money which he so has or has had in his hands but a district council who is, or would be, debarred by this paragraph from recovering the whole of any such expenses from an agent or trustee may recover summarily as a civil debt the whole or any unpaid balance of the expenses from the person on whose behalf the agent or trustee receives the rent.

(3) In all summary proceedings by a district council under this Article for the recovery of expenses recoverable under this Order, the time within which the proceedings may be taken shall be reckoned from the date of the service of the demand.

(4) Any interest payable on expenses recoverable under this Order shall be at the same rate as is for the time being determined by the Department of Finance under section 5 of the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1962 .

(5) In proceedings for the recovery of expenses recoverable under this Order it shall not be open to the defendant to raise any question which he could have raised on an appeal under Article 18 against a notice requiring the carrying out of adaptations.

(6) Any expenses recoverable—

- (a) under Article 14, from a person who caused a chimney to be erected, and who is the owner of the land on which the chimney is or was erected;
- (b) under Article 18, from the owner of a private dwelling;

together with interest accrued due on the expenses, shall, until recovered, be a charge on the estate or interest of the owner in the land or dwelling, so however that if the owner is merely an agent or trustee for some other person, those expenses shall be a charge on the estate in the land or dwelling of that other person, and not on that of such owner.

(7) The charge under paragraph (6) may be recovered by the same means and in the like manner in all respects as if it were a mortgage by deed created by the owner of the land or dwelling in favour of the district council, and for the recovery of it the district council may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgagees by deed.

**Changes to legislation:**

There are currently no known outstanding effects for the Clean Air (Northern Ireland) Order 1981, Section 33.