
STATUTORY INSTRUMENTS

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;^{F1} or]
- (e) any relevant land of a designated educational institution; ^{F2} ...
- ^{F2}(f)

(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.

<p>F1 Word in art. 11(1)(d) inserted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 3 para. 3(3); S.R. 2012/13, Sch. 2</p> <p>F2 Art. 11(1)(f) and preceding word 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</p>

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,^{F3}or
- (c) any relevant land of a designated educational institution,^{F4}...
- ^{F4}(d)

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;
- ^{F5}(d)

(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.

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| <p>F3 Word in art. 12(1)(b) inserted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, Sch. 3 para. 3(4); S.R. 2012/13, Sch. 2</p> <p>F4 Art. 12(1)(d) and preceding word 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</p> <p>F5 Art. 12(3)(d) 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</p> |
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[^{F6}Litter clearing notices

12A.—(1) A district council may in accordance with this Article serve a notice (a “litter clearing notice”) in relation to any land in its district which is open to the air.

(2) Before serving a litter clearing notice in relation to any land a district council must be satisfied that the land is defaced by litter so as to be detrimental to the amenity of the locality.

- (3) A litter clearing notice is to require the person on whom it is served—
- (a) to clear the land of the litter; and
 - (b) if the district council is satisfied that the land is likely to become defaced by litter again, to take reasonable steps to prevent it from becoming so defaced.
- (4) A litter clearing notice shall be served on—
- (a) the occupier of the land to which it relates; or
 - (b) if the land is not occupied, the owner.
- (5) A litter clearing notice imposing a requirement under paragraph (3)(a) may specify—
- (a) a period within which the requirement must be complied with;
 - (b) standards of compliance.

(6) A period specified under paragraph (5)(a) shall not be less than 28 days beginning with the day on which the notice is served.

(7) A district council shall, in discharging its functions under this Article, have regard to any guidance given to it by the Department.

(8) The form and content of a litter clearing notice shall be such as the Department may by order specify.

(9) Where a district council proposes to serve a litter clearing notice in respect of any land but is unable after reasonable enquiry to ascertain the name or proper address of the occupier of the land (or, if the land is unoccupied, the owner)—

- (a) the council may post the notice on the land (and may enter any land to the extent reasonably necessary for that purpose), and
- (b) the notice shall be treated as having been served upon the occupier (or, if the land is unoccupied, the owner) at the time the notice is posted.

(10) A litter clearing notice shall not be served in relation to land of any of the following descriptions—

- (a) a road;
- (b) land under the direct control of a district council;
- (c) Crown land;
- (d) relevant land of a designated statutory undertaker;
- (e) relevant land of a designated educational institution.]

<p>F6 Arts. 12A-12C inserted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), ss. 17(2), 78; S.R. 2012/13, Sch. 2</p>
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[^{F6} Appeals against litter clearing notices

12B.—(1) A person on whom a litter clearing notice is served under Article 12A may appeal against it to a court of summary jurisdiction in accordance with the provisions of this Article.

(2) An appeal under this Article shall be made within a period of 21 days beginning on the day on which the notice is served.

(3) The grounds on which an appeal under this Article may be made are that—

- (a) there is a material defect or error in, or in connection with, the notice;
- (b) the notice should have been served on another person;
- (c) the land is not defaced by litter so as to be detrimental to the amenity of the locality;
- (d) the action required is unfair or unduly onerous.

(4) A notice against which an appeal under this Article is made is of no effect pending the final determination or withdrawal of the appeal.

(5) On the determination of an appeal under this Article, a court of summary jurisdiction must—

- (a) quash the notice;
- (b) modify the notice (including modifying it by extending the period specified in it); or
- (c) dismiss the appeal.

<p>F6 Arts. 12A-12C inserted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), ss. 17(2), 78; S.R. 2012/13, Sch. 2</p>
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Failure to comply with litter clearing notice

12C.—(1) This Article applies where the person on whom a litter clearing notice is served under Article 12A fails without reasonable excuse to comply with any requirement imposed by the notice.

(2) The person is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) The district council which served the notice or any person authorised by it may enter the land to which the notice relates and clear it of litter.

(4) Where a district council exercises the power in paragraph (3), it may require the person on whom the notice was served to pay a reasonable charge in respect of the exercise of the power.

(5) A district council may for the purposes of paragraph (4) impose charges by reference to land of particular descriptions or categories (including categories determined by reference to surface area).]

<p>F6 Arts. 12A-12C inserted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), ss. 17(2), 78; S.R. 2012/13, Sch. 2</p>
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Changes to legislation:

There are currently no known outstanding effects for the The Litter (Northern Ireland) Order 1994, Summary proceedings to deal with litter.