



# Refuse Disposal (Amenity) Act 1978

## 1978 CHAPTER 3

An Act to consolidate certain enactments relating to abandoned vehicles and other refuse. [23rd March 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Control of dumping*

#### **1 Provision by local authorities for disposal of refuse**

- (1) It shall be the duty of a local authority to provide places where refuse, other than refuse falling to be disposed of in the course of a business, may be deposited at all reasonable times free of charge by persons resident in the area of the authority and, on payment of such charges (if any) as the authority think fit, by other persons.
- (2) Any place provided by a local authority in pursuance of subsection (1) above shall either be situated within the area of the authority or, if not so situated, be reasonably accessible to persons resident in that area ; and a local authority may if they think fit, without prejudice to the generality of their duty under subsection (1) above, determine that any such place shall be available for the deposit of refuse of such descriptions only as are specified in the determination.
- (3) A local authority may—
  - (a) permit, on such terms as they think fit, the deposit at a place provided by them in pursuance of this section of refuse falling to be disposed of in the course of a business;
  - (b) provide plant and apparatus for the treatment or disposal of refuse deposited at such a place; and
  - (c) sell or otherwise dispose of any such refuse.

- (4) The power of a local authority to provide places, plant and apparatus and to accept and dispose of refuse in pursuance of the foregoing provisions of this section includes power to enter into an agreement with any other person for the provision of facilities by him for the purposes of those provisions at any place under his control.
- (5) No action shall lie against a local authority in respect of damage resulting from their failure to carry out their duty under this section ; but if the Secretary of State is satisfied, after holding a local inquiry, that a local authority have failed to carry out that duty he may by order require the authority to take such steps for carrying it out as are specified in the order.
- (6) An order under subsection (5) above shall be enforceable on the application of the Secretary of State by mandamus or, in Scotland, by proceedings under section 91 of the Court of Session Act 1868.
- (7) In this section—
  - " local authority " means, in relation to England, the council of a county and the Greater London Council, and
  - " refuse " includes any matter whatsoever, whether inorganic or organic.
- (8) On the relevant date, for subsection (1) of this section there shall be substituted the following subsection:—
  - “(1) It shall be the duty of a local authority to provide places where refuse, other than refuse falling to be disposed of in the course of a business, may be deposited at all reasonable times (including at least one period of time on the Saturday or the following day of each week except a week in which the Saturday is 25th December or 1st January) free of charge by any person.”.

## **2      Penalty for unauthorised dumping**

- (1) Any person who, without lawful authority,—
  - (a) abandons on any land in the open air, or on any other land forming part of a highway, a motor vehicle or anything which formed part of a motor vehicle and was removed from it in the course of dismantling the vehicle on the land ; or
  - (b) abandons on any such land any thing other than a motor vehicle, being a thing which he has brought to the land for the purpose of abandoning it there,
 shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding £100 or in the case of a second or subsequent conviction to a fine of an amount not exceeding £200 or imprisonment for a term not exceeding three months or both.
- (2) For the purposes of subsection (1) above, a person who leaves any thing on any land in such circumstances or for such a period that he may reasonably be assumed to have abandoned it or to have brought it to the land for the purpose of abandoning it there shall be deemed to have abandoned it there or, as the case may be, to have brought it to the land for that purpose unless the contrary is shown.
- (3) In Scotland, an offence under this section may be prosecuted in any court of summary jurisdiction within the meaning of section 462(1) of the Criminal Procedure (Scotland) Act 1975 having jurisdiction in the place where the offence was committed.

### *Abandoned vehicles and other refuse*

## **3 Removal of abandoned vehicles**

- (1) Where it appears to a local authority that a motor vehicle in their area is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway, it shall be the duty of the authority, subject to the following provisions of this section, to remove the vehicle.
- (2) Where it appears to a local authority that the land on which a motor vehicle is abandoned as aforesaid is occupied by any person, the authority shall give him notice in the prescribed manner that they propose to remove the vehicle in pursuance of subsection (1) above but shall not be entitled to remove it if he objects to the proposal in the prescribed manner and within the prescribed period.
- (3) A local authority shall not be required by virtue of subsection (1) above to remove a vehicle situated otherwise than on a carriageway within the meaning of the Highways Act 1959 if it appears to them that the cost of its removal to the nearest convenient carriageway within the meaning of that Act would be unreasonably high.
- (4) In the application of subsection (3) above to Scotland, "carriageway" means a way, other than a cycle track, over which the public have a right of way for the passage of vehicles.
- (5) Where in pursuance of this section a local authority propose to remove a vehicle which in their opinion is in such a condition that it ought to be destroyed they shall, not less than the prescribed period before removing it, cause to be affixed to the vehicle a notice stating that the authority propose to remove it for destruction on the expiration of that period.
- (6) Any vehicle removed by the council of a London borough or the Common Council under this section shall be delivered by them to the Greater London Council in accordance with such arrangements (including arrangements as to the sharing of any expenses incurred or sums received by the council and the Greater London Council under this Act) as may be agreed between the council and the Greater London Council or, in default of agreement, as may be determined by the Secretary of State.
- (7) Any vehicle removed by the council of a district in England under this section shall be delivered by them to the county council in accordance with such arrangements (including arrangements as to the sharing of any expenses incurred or sums received by the district council and the county council under this Act) as may be agreed between the district council and the county council or, in default of agreement, as may be determined by arbitration.
- (8) While a vehicle, other than a vehicle to which a notice was affixed in accordance with subsection (5) above, is in the custody of a local authority or the Greater London Council or the council of a county in England in pursuance of this section, it shall be the duty of that body to take such steps as are reasonably necessary for the safe custody of the vehicle.
- (9) Subsections (5) and (6) of section 1 above shall apply to the duties imposed by subsections (1) and (2) above as if—
  - (a) for any reference to the duty imposed by that section there were substituted a reference to the duties aforesaid; and

- (b) for any reference to a local authority within the meaning of that section there were substituted a reference to a local authority within the meaning of this section.

#### **4 Disposal of removed vehicles**

- (1) Subject to subsections (5) and (6) below, a local authority may, in such manner as they think fit, dispose of any vehicle which is in their custody in pursuance of section 3 above—
  - (a) in the case of a vehicle to which a notice was affixed in accordance with subsection (5) of that section and on which no current licence was displayed at the time of its removal, at any time after its removal;
  - (b) in the case of a vehicle to which a notice was so affixed and on which a current licence was so displayed, at any time after the licence expires ;
  - (c) in any other case, at any time after the local authority have taken such steps as may be prescribed to find a person appearing to them to be the owner of the vehicle and either—
    - (i) they have failed to find such a person, or
    - (ii) he has failed to comply with a notice served on him in the prescribed manner by the local authority requiring him to remove the vehicle within the prescribed period from their custody,
 but not earlier, in a case where it appears to the local authority that a licence is in force in respect of the vehicle, than the expiration of the licence.
- (2) On the relevant date, subsection (1) above shall have effect subject to the provisions of this subsection, that is to say—
  - (a) any reference in paragraphs (a) and (b) to a current licence shall be construed as including a reference to a licence which was current during any part of the period of 14 days ending with the day preceding that on which the removal of the vehicle in question took place; and
  - (b) the reference in paragraph (b) to the expiration of a licence shall be construed as a reference to the expiration of the period of 14 days beginning with the day following that on which the licence expired,
 and for the purposes of paragraph (c) of that subsection an expired licence shall be treated as still in force during the period of 14 days beginning with the day following that on which it expired, and the reference in that paragraph to the expiration of the licence shall be construed accordingly.
- (3) The power to dispose of vehicles conferred on a local authority by subsection (1) above includes power to provide plant and apparatus for the purpose of disposing of vehicles.
- (4) The Secretary of State may by regulations require a local authority by whom a vehicle is disposed of in pursuance of this section to give such information relating to the disposal as may be prescribed to such persons as may be prescribed.
- (5) If before a vehicle is disposed of by a local authority in pursuance of this section the vehicle is claimed by a person who satisfies the authority that he is its owner and pays to the authority such sums in respect of its removal and storage as may be prescribed, the local authority shall permit him to remove the vehicle from their custody during such period as may be prescribed.

- (6) If before the expiration of the period of one year beginning with the date on which a vehicle is sold by a local authority in pursuance of this section any person satisfies the authority that at the time of its sale he was the owner of the vehicle, the local authority shall pay over to him any sum by which the proceeds of sale exceed the aggregate of such sums in respect of the removal, storage and disposal of the vehicle as may be prescribed.
- (7) If in the case of any vehicle it appears to a local authority that more than one person is or was its owner at the relevant time, such one of them as the authority think fit shall be treated as its owner for the purposes of subsections (5) and (6) above.
- (8) In this section "local authority" means, in relation to England, a county council or the Greater London Council.

## **5 Recovery of expenses connected with removed vehicles**

- (1) Where a vehicle is removed in pursuance of section 3(1) above the appropriate authority shall be entitled to recover from any person responsible—
  - (a) such charges as may be prescribed in respect of the removal of the vehicle ; and
  - (b) charges ascertained by reference to a prescribed scale in respect of any period during which the vehicle is in the custody of the authority ; and
  - (c) where the vehicle is disposed of in pursuance of section 4 above, charges determined in the prescribed manner in respect of its disposal.
- (2) Any sum recoverable by virtue of this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.
- (3) Without prejudice to subsection (2) above, the court by which a person is convicted of an offence under section 2(1) above in respect of a motor vehicle may, on the application of the appropriate authority and in addition to any other order made by the court in relation to that person, order him to pay to the authority any sum which, in the opinion of the court, the authority are entitled to recover from him under this section in respect of the vehicle.
- (4) In this section—
  - " the appropriate authority " means—
    - (a) in the case of a vehicle removed in pursuance of section 3(1) above by the council of a district in England, the county council;
    - (b) in the case of a vehicle so removed by a local authority in Wales, the local authority ; and
    - (c) in the case of a vehicle so removed by the council of a London borough or the Common Council, the Greater London Council; and
  - " person responsible ", in relation to a vehicle, means—
    - (a) the owner of the vehicle at the time when it was put in the place from which it was so removed, unless he shows that he was not concerned in and did not know of its being put there ;
    - (b) any person by whom it was put in the place aforesaid;
    - (c) any person convicted of an offence under section 2(1) above in consequence of the putting of the vehicle in the place aforesaid.
- (5) For the purposes of subsection (1)(b) above—

- (a) a vehicle removed in pursuance of the said section 3(1) by the council of a London borough or the Common Council shall be treated as in the custody of the Greater London Council while it was in the custody of the council by whom it was so removed ; and
  - (b) a vehicle so removed by the council of a district in England shall be treated as in the custody of the county council while it was in the custody of the district council by whom it was so removed.
- (6) In the application of this section to Scotland—
- (a) the definition of " the appropriate authority " shall be omitted and for any other reference to the appropriate authority there shall be substituted a reference to the local authority;
  - (b) subsection (2) and in subsection (3) the words from the beginning to " subsection (2) above " shall be omitted.

## **6 Removal and disposal etc. of other refuse**

- (1) Where it appears to a local authority that any thing in their area, other than a motor vehicle, is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway, the authority may if they think fit, subject to subsection (2) below, remove the thing.
- (2) A local authority shall not be entitled to exercise their powers under subsection (1) above as respects a thing situated on land appearing to the authority to be occupied by any person unless the authority have given him notice in the prescribed manner that they propose to remove the thing and he has failed to object to the proposal in the prescribed manner and within the prescribed period.
- (3) Section 76 of the Public Health Act 1936 (which relates to the deposit and disposal of refuse) shall, with the exception of subsection (3)(a) of that section, apply to any thing removed in pursuance of subsection (1) above as it applies to other refuse.
- (4) Subject to subsection (5) below, a local authority by whom any thing is removed in pursuance of subsection (1) above shall be entitled to recover the cost of removing and disposing of it from—
  - (a) any person by whom it was put in the place from which it was so removed, or
  - (b) any person convicted of an offence under section 2(1) above in consequence of the putting of the thing in that place.
- (5) Any sum received in pursuance of subsection (4) above by a local authority in Greater London in respect of the cost to the Greater London Council of disposing of any thing shall be paid over by the authority to the Council.
- (6) Subsections (2) and (3) of section 5 above shall apply for the purposes of this section as they apply for the purposes of that section, but as if in the said subsection (3)—
  - (a) for references to a vehicle there were substituted references to any other thing, and
  - (b) for references to the appropriate authority there were substituted references to the relevant local authority.
- (7) In the application of this section to Scotland—
  - (a) for subsection (3) there shall be substituted the following subsection—
 

“(3) A local authority may—

- (a) provide places for the deposit of any thing removed by them under subsection (1) above;
    - (b) provide plant and apparatus for the treatment or disposal of any thing deposited at such a place; and
    - (c) sell or otherwise dispose of any such thing.”;
  - (b) in subsection (6), for paragraphs (a) and (b) there shall be substituted the words " for references to a vehicle there were substituted references to any other thing ".
- (8) On the relevant date—
- (a) for subsection (3) of this section there shall be substituted the following subsection:—
    - “(3) A local authority may—
    - (a) provide places for the deposit of any thing removed by them under subsection (1) above;
      - (b) provide plant and apparatus for the treatment or disposal of any thing deposited at such a place; and
      - (c) sell or otherwise dispose of any such thing.”;
    - (b) subsection (7)(a) of this section shall be omitted.

*Miscellaneous and supplemental*

**7 Acquisition of land**

A local authority and in England the council of a county and the Greater London Council may be authorised by the Secretary of State to acquire land compulsorily for any of the purposes of this Act, and the Acquisition of Land (Authorisation Procedure) Act 1946 or, in Scotland, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section as if this section had been in force immediately before the commencement of that Act

**8 Powers of entry etc.**

- (1) Any person duly authorised in writing by the Secretary of State or a local authority may at any reasonable time enter upon any land for the purpose of ascertaining whether any of the functions conferred by section 3 or section 6 above should or may be exercised in connection with the land, or for the purpose of exercising any of those functions in connection with the land.
- (2) Section 281(1) to (5) of the Town and Country Planning Act 1971 (which contains supplementary provisions as to rights of entry under section 280 of that Act) shall have effect with the necessary modifications as if references to section 280 included references to subsection (1) above.
- (3) Sections 282 to 284 of the said Act of 1971 (which relate to local inquiries, the service of notices and the furnishing of information) shall have effect as if any reference to that Act or specified provisions of that Act included a reference to this Act.
- (4) In the application of this section to Scotland, for subsections (2) and (3) there shall be substituted the following subsections—

“(2) Section 266(1) to (5) of the Town and Country Planning (Scotland) Act 1972 (which contains supplementary provisions as to rights of entry under section 265 of that Act) shall have effect with the necessary modifications as if references to section 265 included references to subsection (1) above.

(3) Sections 267 to 270 of the said Act of 1972 (which relate to local inquiries, the service of notices and the furnishing of information) shall have effect as if any reference to that Act Or specified provisions of that Act included a reference to this Act.”

## **9 Application to Isles of Scilly**

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide that any provision of this Act specified in the order shall apply to the Isles, subject to such modifications as may be so specified, as if the Isles were a county or a district.

## **10 Orders and regulations**

- (1) Any power to make regulations conferred by this Act includes power to make provision in respect of such cases only as may be specified in the regulations and to make different provision for different circumstances.
- (2) An order under any provision of this Act, except section 13 below, may be revoked or varied by a subsequent order under that provision.
- (3) An order under section 13 below appointing a day in respect of section 1(8) or 6(8) above may be revoked or varied by an order made by the Secretary of State which comes into force before that day.
- (4) Any power to make regulations or an order under any provision of this Act, except sections 1(5) and 5(3) and the said section 1(5) as applied by section 3(9), shall be exercisable by statutory instrument
- (5) Any statutory instrument made by virtue of any provision of this Act except—
  - (a) an order under section 9 above ; or
  - (b) an order under section 13 below relating to section 1(8) or 6(8) above,
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **11 Interpretation**

- (1) In this Act, unless the contrary intention appears, the following expressions have the following meanings, that is to say—
  - " the Common Council " means the Common Council of the City of London ;
  - " highway ", in the application of this Act to Scotland, shall be deemed to include any public right of way ;
  - " licence " means, in relation to a vehicle, a licence issued for the vehicle under the Vehicles (Excise) Act 1971 ;
  - " local authority " means—



- (a) in relation to England, a district council, London borough council or the Common Council;
- (b) in relation to Scotland, an islands or district council; and
- (c) in relation to Wales, a district council;

" motor vehicle " means a mechanically propelled vehicle intended or adapted for use on roads, whether Or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer;

" owner ", in relation to a motor vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

" prescribed " means prescribed by regulations made by the Secretary of State;

" the relevant date " has the meaning given to it by section 13(3) below.

- (2) Any reference in this Act to an enactment is a reference to it as amended or applied by or under any other enactment, including this Act

## **12 Consequential amendments, repeals and savings**

- (1) Section 14 of the Airports Authority Act 1975 (functions of British Airports Authority as respects abandoned vehicles) shall have effect subject to the amendments set out in Schedule 1 to this Act, being amendments consequential upon the provisions of this Act.
- (2) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) In so far as any instrument made, or any thing done, under or by virtue of any enactment repealed by this Act could have been made or done under or by virtue of a corresponding enactment in this Act, it shall not be invalidated by the repeal effected by this section but shall have effect as if it had been made or done under or by virtue of that corresponding enactment.
- (4) Without prejudice to subsection (1) above, any enactment or other document whatever referring to any enactment repealed by this Act shall, as far as may be necessary for preserving its effect, be construed as referring (or including a reference) to the corresponding enactment in this Act.
- (5) For the purposes of section 2 of this Act a person shall be treated as having been previously convicted of an offence under that section if he had been previously convicted of an offence under section 19 of the Civic Amenities Act 1967.
- (6) Section 254(2)(c) of the Local Government Act 1972 (power of Secretary of State to amend, etc. enactments by order) shall apply to this Act as if it had been passed before 1st April 1974.
- (7) Nothing in the preceding provisions of this section shall prejudice the general application of section 38 of the Interpretation Act 1889 (which relates to repeals).

**13 Citation, commencement and extent**

- (1) This Act may be cited as the Refuse Disposal (Amenity) Act 1978.
- (2) This Act shall come into force at the end of the period of one month beginning with the date on which it is passed.
- (3) Subsection (2) above shall not apply to sections 1(8), 4(2) and 6(8) above, which shall come into force on the relevant date ; and in this Act "the relevant date" means such day as the Secretary of State may by order appoint.
- (4) Different days may be appointed in pursuance of subsection (3) above for each of the said provisions, and different days may be appointed for such different purposes of the same provision as may be specified in the order.
- (5) This Act does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 12.

AMENDMENT OF SECTION 14 OF THE AIRPORTS AUTHORITY ACT 1975

In section 14 of the Airports Authority Act 1975—

(a) for paragraph (a) of subsection (1) substitute:—

“(a) section 3, section 4 and section 5 of the Refuse Disposal (Amenity) Act 1978 (powers and duties of local authorities to remove and dispose of vehicles abandoned on land in their area) and section 8 of that Act (powers of entry etc.) so far as relating to the said section 3 ;”;

(b) for paragraph (a) of subsection (3) substitute:—

“(b) section 3 of the Refuse Disposal (Amenity) Act 1978;”.

SCHEDULE 2

Section 12.

REPEALS

Chapter	Short Title	Extent of Repeal
1967 c. 69.	Civic Amenities Act 1967.	Sections 18 to 24. Sections 27 and 28. In section 30(1), the definitions of " the Common Council ", " local authority ", " local planning authority" and " owner ".
1969 c. 27.	Vehicle and Driving Licences Act 1969.	Section 29(3).
1971 c. 78.	Town and Country Planning Act 1971.	In Schedule 23, Part II, the entry relating to section 28 of the Civic Amenities Act 1967.
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	In Schedule 21, Part II, the entry relating to section 28(4) of the Civic Amenities Act 1967.
1972 c. 70.	Local Government Act 1972.	Section 186(2). In Schedule 14, paragraph 45. In Schedule 19, Part III

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
<a href="#">1973 c. 65.</a>	Local Government (Scotland) Act 1973.	In Schedule 27, Part II, paragraphs 169 and 170.
<a href="#">1974 c. 40.</a>	Control of Pollution Act 1974.	In Schedule 3, paragraph 25.