
STATUTORY INSTRUMENTS

1985 No. 1208

The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985

PART VI

MISCELLANEOUS FUNCTIONS OF DISTRICT COUNCILS

Provision of crematorium by council

17.—(1) A council may provide and maintain a crematorium.

(2) No cremation shall be carried out in any crematorium provided under this Article until the cremation has been certified to the Department by the council to be complete and to be properly equipped for the purposes of cremations.

(3) The Department may make regulations with respect to crematoria provided under this Article as to—

- (a) their maintenance and inspection;
- (b) the cases in and the conditions under which cremations may take place;
- (c) the disposition or interment of the ashes resulting from cremations;
- (d) the forms of the notices, certificates and applications to be given or made before any cremation is permitted to take place;
- (e) the registration of cremations;
- (f) the notification of cremations to the Registrar General or to registrars of births and deaths;
- (g) the fees that may be charged in respect of the issue of any medical certificate required under the regulations.

(4) Regulations under paragraph (3) shall be subject to negative resolution.

(5) A certified copy of an entry in any register of cremations kept under paragraph (3) purporting to be signed by an officer of the council authorised by the council for that purpose or under the seal of the council shall in any legal proceedings be evidence of the cremation to which it relates.

(6) A council may fix the charges or fees for or in connection with cremations in any crematorium provided by it and such charges or fees, and any other expenses properly incurred in or in connection with the cremation of a deceased person, shall be deemed to be part of the funeral expenses of that deceased person.

(7) Nothing in this Article shall authorise a council to create or permit a nuisance.

(8) Any person who—

- (a) contravenes any regulations made under paragraph (3); or
- (b) knowingly carries out or procures or takes part in the burning of any human remains otherwise than in accordance with such regulations and the provisions of this Article,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Any person who wilfully makes a false representation, or signs or utters any false certificate, with a view to procuring the cremation of any human remains in a crematorium provided under this Article shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

(10) Without prejudice to Article 10 of the Perjury (Northern Ireland) Order 1979, sections 36 and 37 of the Forgery Act 1861 (destruction, falsification, etc. of registers of burials or copies thereof) shall, with the necessary modifications, apply to any register of cremations kept under paragraph (3).

(11) This Article (except paragraph (2)) shall apply to any crematorium maintained by a council immediately before the coming into operation of this Order as if it had been provided by the council under this Article.

(12) In this Article “crematorium” means a building fitted with appliances for the purpose of burning human remains, and includes everything incidental or ancillary thereto.

[^{F1} Removal or obliteration of graffiti, placards and posters

18.—(1) Subject to the following provisions of this Article, a district council may remove or obliterate—

- (a) any graffiti which, in the opinion of the council, is detrimental to the amenity of any land in its district;
- (b) any placard or poster which is displayed in its district and which, in the opinion of the council, is so displayed in contravention of regulations under [^{F2}section 130 of the Planning Act (Northern Ireland) 2011] .

(2) Where any graffiti, placard or poster to which sub-paragraph (a) or (b) of paragraph (1) applies identifies the person who displayed it or caused it to be displayed, a district council may give that person notice in writing—

- (a) that the council is of the opinion mentioned in that sub-paragraph in respect of the graffiti, placard or poster specified in the notice;
- (b) requiring that graffiti, placard or poster to be removed or obliterated within the period of 2 days beginning with the date of service of the notice; and
- (c) stating the effect of paragraph (3).

(3) Where—

- (a) a district council serves a notice on a person under paragraph (2) in relation to any graffiti, placard or poster, and
- (b) the person fails to remove or obliterate it within the period mentioned in that paragraph,

the council may recover summarily as a civil debt from that person the expenses it may reasonably incur in exercising its power under paragraph (1).

(4) Where—

- (a) any graffiti, placard or poster to which paragraph (1)(a) or (b) applies does not identify the person who displayed it or caused it to be displayed, but
- (b) the graffiti, placard or poster publicises the goods, services or concerns of an identifiable person,

paragraphs (2) and (3) have effect as if the reference in paragraph (2) to the person who displayed the graffiti, placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised.

(5) For the purpose of exercising any power under paragraph (1) a person authorised in writing by the council for the purposes of this Article may at any reasonable time enter any land if—

- (a) the land is unoccupied, and
- (b) it would be impossible to exercise the power without entering the land.

(6) Where any damage is caused to land or chattels in the exercise of any power under paragraph (1), compensation may be recovered from the district council exercising the power by any person suffering the damage (other than the person who displayed the graffiti, placard or poster or caused it to be displayed).

(7) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(8) Nothing in this Article authorises the removal or obliteration of any graffiti, placard or poster displayed—

- (a) within a building to which there is no public right of access; or
- (b) on land owned or occupied by a body established by or under a statutory provision.

(9) ^{F3} This Article and Article 19 are without prejudice to sections 130 and 175 of the Planning Act (Northern Ireland) 2011 (control of advertisements) and to any regulations made under that Act by virtue of those sections.]]

F1 Art. 18 substituted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\), ss. 36, 78; S.R. 2012/13, art. 2\(2\), Sch. 2](#)

F2 Words in art. 18(1)(b) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by virtue of [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 50](#) (with s. 211); [S.R. 2015/49, art. 2, 3, Sch. 1](#) (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2) (The affecting provision (Sch. 6 para. 50) states that words in art. 18(9) should be substituted. However, following art. 18 substitution (1.4.2012) by 2011 c. 23 (N.I.), the target words occur in art. 18(1)(b) and this amendment has been carried out given the clear intended effect).

F3 Art. 18(9) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by virtue of [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 51](#) (with s. 211); [S.R. 2015/49, art. 2, 3, Sch. 1](#) (with Sch. 2 as amended (16.3.2016) by S.R. 2016/159, art. 2) (The affecting provision (Sch. 6 para. 51) states that art. 18(11) should be substituted, however, following art. 18 substitution (1.4.2012) by 2011 c. 23 (N.I.), no sub-provision (11) exists. This amendment has been carried out for art. 18(9) given the clear intended effect).

Advertising on council property

19. A council may enter into agreement with any person for the display of advertisements on or in—

- (a) any land vested in or maintained by the council;
- (b) any moveable property owned by the council;
- (c) any vehicle or machinery operated by the council.

Use of spare capacity of computers of council

20.—(1) If a council—

- (a) has provided a computer for the purpose of enabling the council to perform any of its functions other than functions under this Article; and
- (b) considers that the computer can, without detriment to its use for that purpose, be used for the benefit of the council in pursuance of the following provisions of this Article,

the council may enter into agreements with other persons for the provision by the council of facilities for using the computer or of services provided by means of the computer.

[^{F4}(1A) If a council has developed software for the purpose mentioned in paragraph (1) the council may enter into agreements with other persons for the supply by the council of the software.]

(2) An agreement in pursuance of this Article may contain such terms as to payment or otherwise as the parties consider appropriate; and it shall be the duty of a council, in settling the terms of such an agreement, to ensure that they are terms on which the council considers that a person other than a council could reasonably be expected to provide the facilities or services[^{F4} or supply the software] in question.

(3) In this Article “computer” means any device for storing and processing information[^{F4} and “software” means instructions required by a computer to perform intended tasks].

(4) This Article is without prejudice to section 105 of the principal Act (arrangements for the supply of goods and services).

F4 1992 NI 6

Art. 21 rep. by 1993 NI 15

Payment of sums due to deceased or mentally disordered officers of council

22.—(1) If, on the death of any person who is or has been an officer of a council, there is due to him or his personal representatives from the council a sum not exceeding £5,000 and not being a pension, allowance or gratuity payable by virtue of Article 9 of the Superannuation (Northern Ireland) Order 1972 the council may, without requiring the production of probate or letters of administration of the estate of the officer, pay the whole or any part of that sum to the officer's personal representatives or to the person, or to or among any one or more of any persons, appearing to the council to be beneficially entitled to the estate of the officer, and any person to whom such a payment is made, and not the council, shall be liable to account for the sum paid to him under this paragraph.

(2) The council may, if it thinks fit, pay out of the said sum the funeral expenses of the officer or so much thereof as it considers reasonable having regard to any death grant which has been or is to be paid under section 32 of the Social Security (Northern Ireland) Act 1975.

^{F5}(3) Paragraph (1) shall be included among the provisions with respect to which the Department of Finance and Personnel may make an order under section 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967, substituting for references to £5,000 references to such higher amount as may be specified in the order.

Para. (4) rep. by 1986 NI 4

F5 mod. by SR 2004/68

Modifications etc. (not altering text)

C1 [Art. 22\(3\)](#) modified (8.12.2020) by [The Administration of Estates \(Small Payments\) \(Increase of Limit\) Order \(Northern Ireland\) 2020 \(S.R. 2020/280\)](#), arts. 1, **2(c)**

Changes to legislation:

There are currently no known outstanding effects for the The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, PART VI.