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STATUTORY INSTRUMENTS

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**1994 No. 1896**

**The Litter (Northern Ireland) Order 1994**

Penalty for leaving litter, etc.

**Offence of leaving litter**

3.—(1) If any person throws down, drops or otherwise deposits in, into or from any place open to the air, and leaves, any thing whatsoever in such circumstances as to cause, or contribute to, or tend to lead to, the defacement by litter of any such place, he shall, subject to paragraph (2), be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that the depositing and leaving of the thing was—

- (a) authorised by law, or
- (b) done with the consent of the owner or other person or authority having control of the place in or into which that thing was deposited.

(3) A person who is guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) A district council, with a view to promoting the abatement of litter, may take such steps as the council thinks appropriate for making the effect of paragraph (3) known to the public in its district.

**Offence of permitting dogs to foul**

4.—(1) Subject to paragraph (4), if any person, being a person in charge of a dog, permits the dog to deposit its excrement in any place prescribed by regulations he shall, subject to paragraph (2), be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that—

- (a) he took all reasonable precautions and exercised due diligence to avoid the commission of the offence; or
- (b) he made a reasonable attempt to remove the excrement.

(3) A person who is guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Paragraph (1) shall not apply to a blind person in charge of a dog kept and used wholly or mainly for his guidance or to a stock person in charge of a working dog being used for droving livestock.

(5) In paragraph (4) “livestock” has the same meaning as in Article 2(2) of the Dogs (Northern Ireland) Order 1983(1).

### **Enforcement of Articles 3 and 4**

5.—(1) Where an authorised person believes that an offence under Article 3 or 4 has been committed, he may demand the name and address of any person whom he believes to be guilty of the offence.

(2) An authorised person (other than a constable in uniform) demanding the name and address of any other person under paragraph (1) shall, if so required, produce his credentials.

(3) If a person whose name and address has been demanded under paragraph (1) fails to comply with the demand, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(4) Without prejudice to the right of any other person to institute proceedings for an offence under Article 3 or 4, a district council may institute proceedings for such an offence committed in its district.

(5) In this Article—

“authorised person”, in relation to an offence believed to have been committed in any place, means—

- (a) an authorised officer of the district council within whose district the place is situated;
- (b) an authorised officer of the district council by whom the place is controlled or managed;
- (c) the owner or occupier of the place (being private land) or any servant or agent of his duly authorised by him in writing; or
- (d) a constable;

“believes” means believes on reasonable grounds.

### **Fixed penalty notices**

6.—(1) Where on any occasion an authorised officer of a district council finds a person who he believes has on that occasion committed an offence under Article 3 or, as the case may be, Article 4 in the district of that council, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person is given a notice under this Article in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of 14 days from the date of the notice; and
- (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(3) A notice under this Article shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

- (a) the period during which, under paragraph (2), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which the fixed penalty may be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(4) Where a letter is sent in accordance with paragraph (3) payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(5) Regulations may prescribe the form of notices under this Article.

(6) The fixed penalty payable to a district council under a notice under this Article shall, subject to paragraph (7), be £10; and as respects the sums received by the council, those sums shall be paid to the Department.

(7) The Department may, by order, substitute a different amount for the amount for the time being specified as the amount of the fixed penalty in paragraph (6).

(8) In any proceedings a certificate which—

- (a) purports to be signed by or on behalf of the clerk of the council; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

(9) In this Article—

“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<sup>(2)</sup>;

“believes” has the same meaning as in Article 5.