Changes to legislation: *Pollution Control and Local Government (Northern Ireland) Order 1978 is up to date with all changes known to be in force on or before 16 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1978 No. 1049 (N.I. 19)

Pollution Control and Local Government (Northern Ireland) Order 1978

\- - - - - - *[25th July 1978]*

Modifications etc. (not altering text)

C1 Order modified (31.12.2020) by S.I. 2019/289, reg. 5, Sch. 3 (as amended by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **3(3)**(5))

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Pollution Control and Local Government (Northern Ireland) Order 1978.

(2) [F1] This Order shall come into operation on such day or days as the Head of the Department may by order appoint[F2].

F1 Commencement orders made to 31.3.1981: SR 1978/348; 1980/97; 1981/85

F2 partly exercised by SR 1992/253

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

[F3]"the Alkali Act" means the Alkali, &c. Works Regulation Act 1906 ;

"the Department" means the Department of the Environment;

"government department" includes a department of the Government of the United Kingdom;

[[F4]"the Industrial Pollution Control Order " means the Industrial Pollution Control (Northern Ireland) Order 1997;**]**

"mine" has the same meaning as in the Mines Act (Northern Ireland) 1969 ;

"modify" means making additions, omissions, amendments, applications, extensions, restrictions and substitutions;

"notice" means notice in writing;

"orders", except orders under Articles 1(2), 39, 43, 45(6) and 83, means orders made by the Department;

"owner", means the person for the time being receiving the rackrent of the land in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the land were let at a rackrent;

"prescribed" means prescribed by regulations;

"private dwelling" means—

(a) a hereditament used wholly for the purposes of a private dwelling as determined in accordance with Schedule 5 of the Rates (Northern Ireland) Order 1977 ; and

(b) a caravan as defined in section 25(1) of the Caravans Act (Northern Ireland) 1963 ;

"quarry" has the same meaning as in the**[**F5 Quarries (Northern Ireland) Order 1983**]**;

"regulations" means regulations made by the Department;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954;

"street" has the same meaning as in the Public Health (Ireland) Act 1878 ;

"vessel" includes a hovercraft within the meaning of the Hovercraft Act 1968 .

(2) Except so far as this Order expressly provides otherwise and subject to the provisions of section 20(1) of the Interpretation Act (Northern Ireland) 1954 (which relates to offences under two or more laws) nothing in this Order—

(a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Order or an instrument made under this Order;

(b) affects any restriction imposed by or under any other statutory provision; or

(c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Order.

(3) In so far as any interest in Crown land is not a Crown interest, this Order shall apply to the land as if it were not Crown land; and in this paragraph—

"Crown land" means land in which there is a Crown interest;

"Crown interest" means an interest—

(a) which belongs to Her Majesty in right of the Crown or belongs to a government department; or

(b) which is held in trust for Her Majesty for the purposes of a government department.

F3 prosp. rep. by 1997 NI 18
F4 1997 NI 18
F5 1983 NI 4

PART II

WASTE ON LAND

Modifications etc. (not altering text)

C2 Pt. II (arts. 3-36) modified by S.R. 2003/493, Sch. 3 Pt. I para. 10 (as substituted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), regs. 1, **40** (with reg. 9(2)))

Arts. 3 and 4 rep. by 1997 NI 19

Arts. 5#17 rep. by 1997 NI 19

Waste other than controlled waste

Art. 18 rep. by 1997 NI 19

Removal of waste deposited on land

19.—(1) If any waste, other than controlled waste or a motor vehicle, is deposited on any land in the open air or on any other land forming part of a road in the district of a district council in contravention of**[**F6 Article 31(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997 or Article**]** 28(1), the council may, subject to paragraph (2), remove the waste.

(2) A district council may not exercise its powers under paragraph (1) as respects waste deposited on land appearing to the council to be occupied by any person unless the council has served on him notice that the council proposes to remove the waste and he has failed to serve on the council, within the prescribed period, notice that he objects to the proposal.

(3) A district council by whom any waste is removed under paragraph (1) may recover the cost of doing so and of disposing of it from any person who deposited the waste on the land or any person convicted of an offence under**[**F6 Article 31(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997 or Article**]** 28(1) in consequence of the depositing of the waste on that land.

F6 1997 NI 19

Powers of district councils as respects other waste

20. Each district council may collect information about, and make arrangements for the disposal of, waste which is situated or likely to be situated in its district and is not controlled waste; but nothing in section 98 of the Local Government Act (Northern Ireland) 1972 or in Article 72 or 76 shall apply to functions conferred on a district council or information collected by a district council under this Article.

Arts. 21—24 rep. by 1997 NI 19

Arts. 25—28 rep. by 1994 NI 10

Motor vehicles

Penalty for abandoning motor vehicles

29.—(1) Any person who, without lawful authority, abandons on any land in the open air, or on any other land forming part of a road,—

(a) a motor vehicle, or

(b) any thing which formed part of a motor vehicle and was removed from it in the course of dismantling the vehicle on the land,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F7] level 5 on the standard scale**]** or, in the case of a second or subsequent conviction, to such a fine or to imprisonment for a term not exceeding three months or both.

(2) For the purposes of paragraph (1), a person who leaves any motor vehicle or thing which formed part of a motor vehicle on any land in such circumstances or for such a period that he may reasonably be assumed to have abandoned 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 this Article and Article 30, "road" includes any street, carriageway, highway or roadway to which the public has access.

F7 1984 NI 3

[F8Fixed penalty notices for offence of abandoning vehicles

29A.—(1) Where on any occasion it appears to an authorised officer of a district council that a person has committed an offence under Article 29(1)(a) in the district of that council, the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the district council.

(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 the period of 14 days following the date of that notice; and

(b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of the period.

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

(4) A notice under this Article shall also state—

(a) the period during which, by virtue of 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.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in paragraph (4)(c) at the address so mentioned.

(6) Where a letter is sent in accordance with paragraph (5) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) The form of a notice under this Article shall be such as the Department may by order prescribe.

(8) The fixed penalty payable to a district council under this Article is, subject to paragraph (9), £200.

(9) The Department may by order substitute a different amount for the amount for the time being specified in paragraph (8).

(10) The district council to which a fixed penalty is payable under this Article may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the council.

(11) The Department may by regulations restrict the extent to which, and the circumstances in which, a district council may make provision under paragraph (10).

(12) In any proceedings a certificate which—

(a) purports to be signed 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,

is evidence of the facts stated.

(13) In this Article—

"authorised officer", in relation to a district council, means an employee of the council who is authorised in writing by the council for the purpose of giving notices under 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.

F8 Arts. 29A-29C inserted (18.1.2012 for specified purposes, 1.4.2012 in so far as not already in operation) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), **ss. 7**, 78; S.R. 2012/13, art. 2(1)(2), Sch. 1, Sch. 2

Fixed penalty notices: power to require name and address

29B.—(1) If an authorised officer of a district council proposes to give a person a notice under Article 29A, the officer may require the person to give him his name and address.

(2) A person commits an offence if—

(a) he fails to give his name and address when required to do so under paragraph (1), or

(b) he gives a false or inaccurate name or address in response to a requirement under that paragraph.

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

(4) In this Article "authorised officer" has the same meaning as in Article 29A.

F8 Arts. 29A-29C inserted (18.1.2012 for specified purposes, 1.4.2012 in so far as not already in operation) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), **ss. 7**, 78; S.R. 2012/13, art. 2(1)(2), Sch. 1, Sch. 2

Use of fixed penalties under Article 29A

29C.—(1) This Article applies in relation to amounts paid to a district council in pursuance of notices under Article 29A (its "fixed penalty receipts").

(2) A district council may use its fixed penalty receipts only for the purposes of—

(a) its functions under this Part;

(b) its functions under Part 8 of the Road Traffic Regulation (Northern Ireland) Order 1997;

(c) its functions relating to the enforcement of sections 2 and 3 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011; and

(d) such other of its functions as may be specified in regulations made by the Department.

(3) Regulations made under paragraph (2)(d) may in particular have the effect that a district council may use its fixed penalty receipts for the purposes of any of its functions.