LITTER CONTROL ACT

Principal Act

Act. No. 1990-31	*Commencement*	9.8.1990
	Enactment	30.5.1990
	Assent	14.6.1990

Amending enactment		Relevant current provisions	Commencement date
L.N.	1991/023	Sch. 1	31.1.1991
Act.	1991-09	s. 4(e), 5(7), Sch. 2	9. 5.1991
	1992/010	Sch. 2 (1) and (2)	13. 2.1992
	1993/119	Sch. 2	8. 7.1992
Act.	1993-19	ss.2, 5, 8, 9, 10 and Sch. 2	10. 1.1994
	2007-17	ss. 4, 6(5)	14.6.2007
LN.	2013/078	Sch. 1 & 2	23.5.2013
	2015/046	Sch. 1	19.3.2015

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Litter Control

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AN ACT TO PROVIDE FOR THE APPOINTMENT OF LITTER AUTHORITIES, THE CREATION OF THE OFFENCE OF LEAVING LITTER AND THE DESIGNATION OF LITTER CONTROL AREAS TOGETHER WITH MATTERS INCIDENTAL AND ANCILLARY THERETO.

Title and commencement.

1.(1) This Act may be cited as the Litter Control Act, 1990.

(2) The provisions of this Act shall come into operation on such day as the Governor may by notice in the Gazette appoint and different days may be so appointed for different purposes.

Interpretation.

2. In this Act, unless the context otherwise requires,–

"authorized officers" shall have the meaning given to it in section 3(3);

"dangerous litter" means litter which, by reason of its size, volume, nature or the place in which it has been thrown down, dropped or deposited, could constitute an obstruction or a danger or a health hazard;

"free public open places" shall have the meaning given to it in section 5(4);

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"litter" means anything whatsoever if it is thrown down, dropped or otherwise deposited in, into or from any place being a free public open place or a litter control area;

"litter authority" means any person specified in accordance with section 3(1), and Schedule 1;

"litter control area" means an area designated under section 7(3);

"notice" means the notice provided for in section 6(2).

Appointment and powers of litter authorities.

3.(1) The Government may by notice in the Gazette appoint as a litter authority any of the bodies specified in Schedule 1 to this Act.

(2) The powers of a body appointed by virtue of sub-section (1) shall be such of the powers provided for by this Act as are specified in the notice of appointment, and may include the power to instigate criminal proceedings by the issue of summonses in the Magistrates' Court for breaches.

(3) The officers of a body appointed by virtue of sub-section (1) shall be authorized officers –

(a) for the purposes of exercising the powers of that body as specified in accordance with sub-section (2);

(b) for the purposes of section 6.

(4) The Government may delegate the discharge of any of its functions under sections 5 or 7 to a body appointed by virtue of sub-section (1).

Power to make regulations.

4. The Government may make all such regulations as are necessary generally for carrying into effect this Act, and in particular but without prejudice to the generality of the foregoing, may make regulations for all or any of the following purposes –

(a) amending Schedules 1 and 2;

(b) prescribing forms and notices for the purposes;

(c) applying the provisions of this Act, subject to any such modification as appears necessary, to any description of animal droppings ;

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(d) prescribing where necessary procedures to be followed for the purposes of achieving the object of this Act;

(e) prescribing the grounds on which any appeal provided for under this Act may be made.

Offence of leaving litter.

5.(1) If any person throws down drops or otherwise deposits in, into or from any place to which this section applies, or leaves anything whatsoever in such circumstances as to cause, or contribute to, or tend to lead to, the defacement by litter of any place in the open air to which this section applies, he shall, subject to sub-section (2), be guilty of an offence.

(2) No offence is committed under this section where the depositing or leaving of a thing was –

(a) authorized by law; or

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

(3) This section applies to the following places –

(a) any free public open place;

(b) any place on land designated as a litter control area.

(4) In this Act–

"free public open place" means a place in the open air to which the public are entitled or permitted to have access without payment ; and–

(a) any covered place open to the air on at least one side and available for public use;

(b) any road as defined in section 2 of the Traffic Act,

shall be treated as a free public open place.

(5) A person who is found guilty of an offence under this section, shall be liable on summary conviction to a fine of an amount provided for in Schedule 2.

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(6) The Government with a view to promoting the abatement of litter, may take such steps as it thinks appropriate for making the effect of sub-section (5) known to the public.

(7) Where a person has been –

(a) reported with a view to being prosecuted in respect of an alleged offence under sub-section (1); or

(b) given a notice in accordance with section 6(1),

the litter authority may, where it considers it necessary in the interests of the neighbourhood and having first given such person the opportunity within a period specified in writing by the litter authority of removing such litter as is the subject of the report referred to in paragraph (a) or the notice referred to in paragraph (b) as the case may be, remove or cause to be removed the said litter, and such person who either –

(a) is convicted of an offence under sub-section (1); or

(b) pays the fixed penalty specified in the notice under section 6(1),

in respect of the said litter, shall be liable to the litter authority for the cost of such removal, which may be recovered as a civil debt.

(8) The provisions of this section shall apply to dangerous litter as they apply to litter

Fixed penalty notices for depositing or leaving litter.

6.(1) Where on any occasion an authorized officer of a litter authority finds a person whom he has reason to believe on that occasion is committing or has committed an offence under section 5, he may give that person the prescribed notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person has been given a notice under this section in respect of an offence –

(a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the service of that notice; and

(b) he shall not be proceeded further against for that offence if he pays the fixed penalty before the expiration of that period.

(3) In subsections (1) and (2)–

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"proceedings" means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under sub-section (1), and

"convicted" shall be construed in like manner.

(4) A notice under this section 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) a reference to the section of the Act, or, as the case may be, the regulation creating the offence ;

(b) the period during which, by virtue of sub-section (2), proceedings are not to be taken for the offence ;

(c) the amount of the fixed penalty ; and

(d) the address of the Clerk of the Magistrates' Court to whom the fixed penalty shall 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).

(5) The form of notices under this section, shall be such as the Government may by regulation prescribe.

(6) The fixed penalty payable in pursuance of a notice under this section, shall be the amount specified for this purpose in Schedule 2 to this Act, and, with respect to the sums received by the Clerk of the Magistrates' Court, those sums shall be paid to any authority specified for this purpose by notice under section 3 (1) above.

(7) In any proceedings, a certificate which –

(a) purports to be signed by or on behalf of the Clerk of the Magistrates' Court ; and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.

Litter control areas.

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7.(1) The Government may by order prescribe descriptions of land which may be designated under sub-section (2) as, or as part of, a litter control area.

(2) The power of the Government to prescribe descriptions of land under sub-section (1) above, includes power to describe land by reference to the ownership or occupation of the land with the activities carried on on it.

(3) Any litter authority may, in accordance with the following provisions of this section, by notice in the Gazette, designate any land to which sub-section (1) applies as, or as part of a litter control area.

(4) No notice under sub-section (3), designating any land shall be made unless the authority is of the opinion that, by reason of the presence of litter or refuse, the condition of the land is, and unless they make a designation order, is likely to continue to be, such as to be detrimental to the amenities of the locality.

(5) The authority proposing to issue a designation notice in relation to any land, shall –

(a) notify persons who appear to the authority to be persons who are affected by the proposed order;

(b) give such persons an opportunity to make written representations about the proposed designation notice within the period of seven days beginning with the service of the notice; and

(c) take any representations so made into account in making their decision.

(6) A designation notice issued under sub-section (3), shall identify the land to which it applies and shall be in the prescribed form.

Duty to keep designated land clear of litter.

8.(1) It shall be the duty of the occupier or in the absence of an identifiable occupier, the owner of any relevant land within a litter control area to ensure that the land is, so far as is practical, kept clear of litter and refuse.

(2) In determining what is required, as respects any description of land, for compliance with sub-section (1), regard shall be had to the character and use of the land as well as measure which are practicable in the circumstances.

(3) For the purposes of this section–

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"relevant land" is land within a litter control area to which the public are entitled or permitted to have access with or without payment.

(4) The provisions of this section shall apply to dangerous litter as they apply to litter.

Summary proceedings by litter authorities.

9.(1) Where a litter authority is satisfied that land designated under section 7(3) is defaced by litter or refuse or that defacement of it by litter or refuse is likely to recur, the authority may serve a notice (a "litter abatement notice") imposing either the requirement or the prohibition or both the requirement and the prohibition specified in sub-section (2).

(2) The requirement and prohibition referred to in sub-section (1) are as follows, namely –

(a) a requirement that the litter or refuse be cleared within a time specified in the notice;

(b) the prohibition on permitting land to be defaced by litter or refuse.

(3) The litter abatement notice shall be served on the occupier or in the absence of an identifiable occupier, the owner of the land.

(4) The person served with the notice may appeal against the notice to the Magistrates' Court within the period of seven days beginning with the date on which the notice was served.

(5) If a person on whom a litter abatement notice is served without reasonable excuse, the proof whereof shall lie with that person, fails to comply with or contravenes the requirement or prohibition imposed by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the amount specified for this purpose in Schedule 2 together with a further fine of an amount equal to one twentieth of that specified amount for each day on which the offence continues after the conviction.

(6) Where a litter abatement notice has been served and the person on whom it was served has failed to comply with it, the litter authority may, where it considers it necessary in the interests of the amenities of the neighbourhood, remove the litter or refuse in respect of which the notice was issued and any person subsequently convicted under sub-section (5) in respect of that litter or refuse shall be liable to the authority for the reasonable cost of such removal.

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(7) The provisions of this section shall apply to dangerous litter as they apply to litter.

Summary proceedings by persons aggrieved by litter.

10.(1) The Magistrates' Court may act under this section on a complaint made by a person on the grounds that he is aggrieved by the defacement by litter or refuse of any land designated as a litter control area under section 7(3).

(2) Proceedings under this section shall be brought against the person who has the duty to keep the land clear under section 8 (1).

(3) Before instituting proceedings under this section against any person, the complainant shall give to the person not less than seven days written notice of his intention to make the complaint and the notice shall specify the matter complained of.

(4) If the Magistrates' Court is satisfied –

(a) that the land in question is defaced by litter or refuse; and

(b) that the defacement is such as to constitute a nuisance or to be prejudicial to health or detrimental to the amenities of the locality, the Court may make an order ("a litter abatement order") requiring the defendant to clear the litter or refuse away within such time as shall be specified in the order.

(5) A person who without reasonable excuse, the proof whereof shall be with that person, fails to comply with any litter abatement order, shall be guilty of an offence and liable on summary conviction to a fine not exceeding the amount specified for this purpose in Schedule 2 to this Act, together with a further fine of an amount equal to one twentieth of that specified amount for each day on which the offence continues after conviction.

(6) Where the Magistrates' Court is satisfied on the hearing of a complaint under this section –

(a) that, when the complaint was made to it, the land in question was defaced by litter or refuse ; 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.

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(7) The provisions of this section shall apply to dangerous litter as they apply to litter.

Consequential amendments.

11. (1) The Public Health Act is amended–

(a) in section 60(1), by omitting from the definition of "refuse storage accommodation" the word "house";

(b) in section 67(1) –

(i) by omitting the figure "£400" and substituting therefor the figure "£200" ;

(ii) by omitting the figure "£20" and substituting therefor the figure "£100";

(iii) by omitting the figure "£40" and substituting therefor the figure "£200";

(c) in section 67(2) –

(i) by inserting after the word ''metal," the word ''wood,";

(ii) by omitting the coma after the words "(including organic matter)" and the words "but does not include material accumulated for or in the course of any business ;";

(d) in section 69 by –

(i) inserting the figure "(1)" before the words "A person who";

(ii) omitting the figure "£100" and substituting therefor the figure "£1,000";

(iii) omitting the figure "£200" and substituting therefor the figure "£2,000" ;

(iv) inserting before the final full stop the words "and in either case to a further fine of £200 for every day on which the offence has continued";

(v) inserting a new subsection as follows–

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"(2) Where it appears to the Government that, a person having been convicted of an offence under sub-section (1), anything falling within paragraphs (a) or (b) of that sub-section remains so abandoned, and it was in respect of the abandonment of such thing that the person was convicted, the Government may without the need of notice or further notice, take such steps for removing any such thing as it considers necessary in the interests of the amenities of the neighbourhood and may recover from the person convicted under sub-section (I) above, as a debt due by him to the Crown, the Government's reasonable expenses of so doing.";

(e) in section 258 –

(i) by omitting paragraph (a) thereof and redesignating paragraph (b) as (a), and paragraph (c) as (b);

(ii) by omitting the figure "£100" and substituting therefor the figure "£500";

(iii) by omitting the figure "£200" and substituting therefor the figure "£1,000".

(2) The Traffic Act is amended by repealing section 100 and replacing it with the following new section –

"**100. Penalties.**

(1) A person convicted of an offence under this Act for which no special penalty is provided, is liable on summary conviction in the case of the first offence to a fine of £50, and in the case of a second or subsequent conviction to a fine of £100 or to imprisonment for three months.

(2) A person convicted of an offence under paragraph 18A of the Traffic (Parking and Waiting) Order is liable on summary conviction in the case of a first offence to a fine of £200 and in the case of a second or subsequent conviction to a fine of £1,000 or to imprisonment for three months.".

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SCHEDULE 1

section 3.

Litter authorities.

The following bodies are specified for the purposes of section 3 of the Act-

The Chief Environmental Health Officer;

The Chief Fire Officer;

The Collector of Customs;

The Commissioner of Police or any person nominated by him;

Persons appointed under section 87 of the Traffic Act.

The Chief Executive Officer[1] of the Department of the Environment or any person nominated by him.

SCHEDULE 2.

section 5, 6, 9 and 10

Fines and fixed penalties.

1. A person convicted of an offence under section 5(5) of this Act shall be liable–

(a) where the offence relates to dangerous litter, to a fine at level 4 on the standard scale;

(b) where the offence relates to litter, to a fine at level 3 on the standard scale,

and to pay such amount as the court is satisfied is equivalent to any cost which the Government has actually incurred in the removal of the litter.

2. A person convicted of an offence under section 9(5) or section 10(5) of this Act shall be liable–

[1] *Corrected by implication of corrigendum2014/098 to LN. 2014/082*

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(a) where the offence relates to dangerous litter, to a fine at level 5 on the standard scale;

(b) where the offence relates to litter, to a fine at level 4 on the standard scale,

and to pay such amount as the court is satisfied is equivalent to any cost which the Government has actually incurred in the removal of the litter

3. The amount specified in respect of the fixed penalty notice issued under section 6 of this Act, is–

(a) where the fixed penalty notice relates to dangerous litter, is £250;

(b) where the fixed penalty notice is issued in respect of litter, is £70.

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