



**Isle of Man**

*Ellan Vannin*

**AT 16 of 2016**

**LOCAL GOVERNMENT AND BUILDING  
CONTROL (AMENDMENT) ACT 2016**





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## LOCAL GOVERNMENT AND BUILDING CONTROL (AMENDMENT) ACT 2016

*Signed in Tynwald:* 19 July 2016  
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**AN ACT** to amend certain enactments in relation to local government, rating and building control and to provide for the introduction of fixed penalties in connection with certain statutory notices and byelaws.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1 – INTRODUCTORY

#### **1 Short title**

The short title of this Act is the Local Government and Building Control (Amendment) Act 2016.

#### **2 Commencement**

- (1) This Act, other than section 1, section 3 and this section, comes into operation on such day or days as the Department of Infrastructure may by order appoint.
- (2) An order under subsection (1) may include such incidental and transitional provision as appears to the Department of Infrastructure to be appropriate.

#### **3 Expiry**

- (1) This Act expires —
  - (a) on the day after its promulgation if all of its provisions are in operation on its promulgation; or

- (b) otherwise, on the day after the last provision of this Act is brought into operation.
- (2) The expiry does not —
  - (a) revive any Act it amended as the Act operated before the amendment commenced;
  - (b) revive anything not in operation or existing when the amendment took effect; or
  - (c) affect the continuing operation of the amendment.

## PART 2 – AMENDMENTS TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1984

### 4 Amendments to the Local Government (Miscellaneous Provisions) Act 1984

The *Local Government (Miscellaneous Provisions) Act 1984* is amended in accordance with sections 5 and 6.

### 5 Amendment of section 14

(1) Section 14 (maintenance of open land) is amended as follows.

(2) For subsection (1) substitute —

**14** (1) If it appears to a local authority that any garden or vacant or other open land in its district is by virtue of lack of cultivation, the presence of anything on the land, or for any other reason in such a condition as to be detrimental to the amenities of the neighbourhood or that such detriment is likely to occur or recur, the authority may by notice require the owner or the occupier of the land within the time specified in the notice to take such steps as are specified in the notice for abating the detriment, or, as the case may be, to prevent the detriment from occurring or recurring. **14**.

(3) At the end insert —

**14** (4) A notice under subsection (1) is not invalid merely on the ground that any other garden or land in the neighbourhood is in the condition mentioned in that subsection. **14**.

### 6 Insertion of section 14A

After section 14 (maintenance of open land) insert —

**14A** Fixed penalty notices where failure to comply with notice under section 14

- (1) This section applies where a person is guilty of an offence under section 58(7) of the *Local Government Act 1985* as a result of failure to comply with a notice under section 14.
- (2) An authorised officer may serve on that person a notice offering him or her the opportunity of discharging any liability to conviction for an offence under section 58(7) of the *Local Government Act 1985* by payment of a fixed penalty.
- (3) Where a person is given a notice under this section in respect of an offence —
  - (a) no proceedings may be instituted for that offence before the expiration of the period of 21 days following the date of the notice; and
  - (b) he or she may not be convicted of that offence if he or she pays the fixed penalty before the expiration of the period.
- (4) A notice under this section must give such particulars of the circumstances constituting the offence as are necessary for giving reasonable information of the offence.
- (5) A notice under this section must also —
  - (a) state the period during which, by virtue of subsection (3), proceedings will not be taken for the offence;
  - (b) state the amount of the fixed penalty;
  - (c) state the person to whom and the address at which the fixed penalty may be paid; and
  - (d) contain a statement informing the person of the local authority's powers under subsection (13) and section 58(7) of the *Local Government Act 1985* in the event that the works are not carried out.
- (6) Subject to subsection (5), the form of a notice under this section is to be such as the Department may specify.
- (7) The fixed penalty payable to the local authority under this section is, subject to subsection (10), £200 or such other amount as the Department may specify.
- (8) 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 to the person mentioned in subsection (5)(c) at the address so mentioned.
- (9) Where a letter is sent in accordance with subsection (8) 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.

- (10) The Department may make provision by order for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the Department.
- (11) An order under this section does not have effect unless it is approved by Tynwald.
- (12) A fixed penalty under this section is recoverable as a civil debt and in any proceedings a certificate which —
- (a) purports to be signed by an authorised officer; and
  - (b) states that payment of a fixed penalty was or was not received by a date mentioned in the certificate,
- is evidence of the facts stated.
- (13) Where a fixed penalty under this section has been paid, but the works to which the notice under section 14 relates have not been carried out in accordance with that notice the local authority concerned may exercise the power in section 58(7)(b) of the *Local Government Act 1985* in relation to those works at the end of the specified period.
- (14) In this section —
- “**authorised officer**” means an officer of a local authority who is authorised in writing by the local authority for the purposes of this section; and
- “**specified**” means specified by order made by the Department. **22**.

## PART 3 – AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1985

### 7 Amendments to the Local Government Act 1985

The *Local Government Act 1985* is amended in accordance with sections 8 and 9.

### 8 Insertion of section 30A

After section 30 (procedure, etc. for byelaws) and immediately before the cross-heading preceding section 31 insert —

#### **30A Fixed penalty notices for contravention of byelaws**

- (1) This section applies if it appears to an authorised officer that a person has contravened a byelaw made under a relevant enactment.
- (2) The authorised officer may serve on that person a notice offering him or her the opportunity of discharging any liability to

- conviction for an offence under the byelaw by payment of a fixed penalty.
- (3) Where a person is given a notice under this section in respect of an offence —
- (a) no proceedings may be instituted for that offence before the expiration of the period of 21 days following the date of the notice; and
  - (b) he or she may not be convicted of that offence if he or she pays the fixed penalty before the expiration of the period.
- (4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (5) A notice under this section must also state —
- (a) the period during which, by virtue of subsection (3), 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.
- (6) 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 to the person mentioned in subsection (5)(c) at the address so mentioned.
- (7) Where a letter is sent in accordance with subsection (6) 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.
- (8) The form of a notice under this section is to be such as the Department may specify.
- (9) The fixed penalty payable to the local authority or to the Department as the case may be under this section is, subject to subsection (10), £100 or such other amount as the Department may specify.
- (10) The Department may make provision by order for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the Department.
- (11) An order under this section does not have effect unless it is approved by Tynwald.
- (12) A fixed penalty is recoverable as a civil debt and in any proceedings a certificate which —
- (a) purports to be signed by an authorised officer; and

(b) states that payment of a fixed penalty was or was not received by a date mentioned in the certificate,

is evidence of the facts stated.

(13) In this section —

“**authorised officer**” means an officer of a local authority or the Department who is authorised in writing by the local authority or the Department as the case may be for the purposes of this section;

“**relevant enactment**” means an enactment, whenever passed, conferring power to make byelaws on a local authority or the Department and for which specific provision is not otherwise made; and

“**specified**” means specified by order made by the Department. **22**.

## 9 Amendment of section 58

(1) Section 58 (appeals against, and enforcement of, notices requiring the execution of works) is amended as follows.

(2) In subsection (7)(a) —

(a) for “£2,500” substitute **63** £5,000 **22**; and

(b) for “£40” substitute **63** £50 **22**.

## PART 4 – AMENDMENTS TO THE BUILDING CONTROL ACT 1991

### 10 Amendments to the Building Control Act 1991

The *Building Control Act 1991* is amended in accordance with sections 11 and 12.

### 11 Amendment of section 24

(1) Section 24 (ruinous buildings etc.) is amended as follows.

(2) In subsection (1) —

(a) after the word “neighbourhood” insert **63** or that a detriment to the amenities of the neighbourhood is likely to occur or recur for this reason **22**;

(b) in paragraph (a) after the word “detriment” insert **63** or as the case may be, prevent it from occurring or recurring **22**;

(c) in paragraph (b)(ii) after the word “removed” insert **63** or prevented from occurring or recurring **22**;

(d) in paragraph (c)(ii) after the word “removed” insert **63** or prevented from occurring or recurring **22**.

- (3) In subsection (2)(b) after the word “neighbourhood” insert **or** that a detriment to the amenities of the neighbourhood is likely to occur or recur for this reason **or**.
- (4) After subsection (4) insert —
- (4A)** A notice under subsection (1) or (2) is not invalid merely on the ground that any other building, structure, site or land in the neighbourhood is in the condition or state mentioned in the subsection in question.
- (4B)** The Department may give guidance about the meaning of the expression “dilapidated” and it shall be the duty of a local authority to have regard to such guidance when exercising functions under this section.
- (4C)** Guidance under subsection (4B) may —
- (a) provide for degrees of dilapidation to be assessed by reference to a scale; and
  - (b) require a local authority to exercise its functions under subsection (1) where a certain level on the scale is reached. **or**.

## 12 Insertion of section 24ZA

After section 24 (ruinous buildings etc.) insert —

**24ZA Fixed penalty notices where failure to comply with notice under section 24**

- (1) This section applies where a person is guilty of an offence under section 58(7) of the *Local Government Act 1985* as a result of failure to comply with a notice under section 24.
- (2) An authorised officer may serve on that person a notice offering him or her the opportunity of discharging any liability to conviction for an offence under section 58(7) of the *Local Government Act 1985* by payment of a fixed penalty.
- (3) Where a person is given a notice under this section in respect of an offence —
  - (a) no proceedings may be instituted for that offence before the expiration of the period of 21 days following the date of the notice; and
  - (b) he or she may not be convicted of that offence if he or she pays the fixed penalty before the expiration of the period.
- (4) A notice under this section must give such particulars of the circumstances constituting the offence as are necessary for giving reasonable information of the offence.
- (5) A notice under this section must also —

- (a) state the period during which, by virtue of subsection (3), proceedings will not be taken for the offence;
  - (b) state the amount of the fixed penalty;
  - (c) state the person to whom and the address at which the fixed penalty may be paid; and
  - (d) contain a statement informing the person of the local authority's powers under subsection (13) and section 58(7) of the *Local Government Act 1985* in the event that the works required by the notice under section 24 are not carried out.
- (6) Subject to subsection (5), the form of a notice under this section is to be such as the Department may specify.
- (7) The fixed penalty payable to the local authority under this section is, subject to subsection (10), £200 or such other amount as the Department may specify.
- (8) 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 to the person mentioned in subsection (5)(c) at the address so mentioned.
- (9) Where a letter is sent in accordance with subsection (8) 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.
- (10) The Department may make provision by order for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the Department.
- (11) An order under this section does not have effect unless it is approved by Tynwald.
- (12) A fixed penalty under this section is recoverable as a civil debt and in any proceedings a certificate which —
- (a) purports to be signed by an authorised officer; and
  - (b) states that payment of a fixed penalty was or was not received by a date mentioned in the certificate,
- is evidence of the facts stated.
- (13) Where a fixed penalty under this section has been paid, but the works to which the notice under section 24 relates have not been carried out in accordance with that notice the local authority concerned may exercise the power in section 58(7)(b) of the *Local Government Act 1985* in relation to those works at the end of the specified period.
- (14) In this section —

“**authorised officer**” means an officer of a local authority who is authorised in writing by the local authority for the purposes of this section; and

“**specified**” means specified by order made by the Department. **22**.

## PART 5 – AMENDMENT TO THE RATING AND VALUATION ACT 1953

### 13 Rating of dangerous or ruinous buildings

In the *Rating and Valuation Act 1953* after section 75 (unfinished buildings or extensions not to pay rates) insert —

#### **75A Rating of dangerous or ruinous buildings**

- (1) A building which has been rateable but which has ceased to be capable of occupation must notwithstanding any rule of practice to the contrary continue to be treated as a rateable hereditament for the purposes of any enactment relating to rating where any of the circumstances mentioned in subsection (2) apply.
- (2) The circumstances are that —
  - (a) an order under section 22 of the *Building Control Act 1991* has been made in relation to the building or any part of it; or
  - (b) a notice requiring the carrying out of work under section 24(1)(a) or (b)(i) of the *Building Control Act 1991* has been served in relation to the building.
- (3) Where following an appeal an order or notice mentioned in subsection (2) is set aside, the court setting the order or notice aside may give directions about liability to rates under this section.
- (4) The Treasury may by order amend subsection (2).
- (5) An order under subsection (4) may not come into operation unless it is approved by Tynwald. **22**.