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LITTER (AMENDMENT) ACT 2003

Chapter 13

Arrangement of sections

1. Control of litter in highways etc.
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3. Short title and commencement



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Received Royal Assent: 22nd October 2003
Announced to Tynwald: 22nd October 2003
Passed: 22nd October 2003

AN ACT

to make provision for the removal of litter from highways and open land adjacent to certain premises.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and 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 (that is to say):—

1. Control of litter in highways etc.

After section 4A of the Litter Act 1972¹ insert —

"4B. Litter control notices

(1) If a local authority is satisfied, in respect of any premises of a description prescribed under section 4C(1)(a) which have a frontage on a highway in its district, that —

- (a) there is recurrent defacement by litter or refuse of any land, being part of the highway or open land adjacent to the highway, which is in the vicinity of the premises, or
- (b) the condition of any part of the premises which is open land in the vicinity of the frontage is, and if no notice is served is likely to continue to be, detrimental to the amenities of the locality by reason of the presence of litter or refuse, or
- (c) there is produced, as a result of the activities carried on on the premises, quantities of litter or refuse of such nature and in such amounts as are likely to cause the

¹ 1972 c.14

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defacement of any part of the highway, or of open land adjacent to the highway, which is in the vicinity of the premises,

the authority may serve a notice (a "litter control notice") on the occupier or, if the premises are unoccupied, on the owner of the premises imposing requirements on any person who from time to time is the occupier of the premises.

(2) A litter control notice shall, subject to subsections (3) and (4), —

- (a) identify the premises and state the grounds under subsection (1) on which it is issued;
- (b) specify an area of open land which adjoins or is in the vicinity of the frontage of the premises on the highway;
- (c) specify, in relation to that area or any part of it, such reasonable requirements as the local authority considers appropriate in the circumstances; and
- (d) specify the date (which shall not be less than 21 days after the date on which it is served) on which it is to come into operation;

and, for the purposes of paragraph (b), an area which includes land on both sides of the frontage of the premises shall be treated as an area adjoining that frontage.

(3) The land comprised in a specified area —

- (a) shall include only land of one or more of the descriptions prescribed under section 4C(1)(b);
- (b) shall not include any land which is not —
 - (i) part of the premises, or
 - (ii) part of a highway;
- (c) shall not include any land comprised in a place designated under section 4A; and
- (d) shall not exceed any maximum area prescribed under section 4C(1)(c).

(4) The requirements which may be imposed by a litter control notice shall relate to the clearing of litter or refuse from the specified area and may in particular require —

- (a) the provision or emptying of receptacles for litter or refuse;
- (b) the doing within a period specified in the notice of any such thing as may be so specified; or
- (c) the doing (while the notice remains in force) at such times or intervals, or within such periods, of any such thing as may be so specified;

but a litter control notice may not require the clearing of litter or refuse from any carriageway, except at a time when the carriageway is closed to all vehicular traffic other than emergency vehicles.

(5) In this section and section 4C —

"open land" means land in the open air;

"the premises", in relation to a litter control notice, means the premises in respect of which the notice is issued;

"specified area" means the area specified in a litter control notice under subsection (2)(b).

4C. Litter control notices: supplemental

(1) The Department may by regulations prescribe —

(a) the descriptions of commercial or retail premises in respect of which a litter control notice may be issued;

(b) the descriptions of land which may be included in a specified area; and

(c) the maximum area of land which may be included in a specified area.

(2) The power to describe premises or land under subsection (1)(a) or (b) includes power to describe the premises or land by reference to occupation or ownership or to the activities carried on there.

(3) Regulations under subsection (1) shall not have effect unless they are approved by Tynwald.

(4) A local authority proposing to serve a litter control notice shall —

(a) inform the person on whom the notice is to be served;

(b) give him the opportunity to make representations about the notice within the period of 21 days beginning with the day on which he is so informed; and

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

(5) Section 58 of the Local Government Act 1985² (appeals and offences) applies to a litter control notice with the following modifications —

(a) omit subsections (2), (5) and (6);

(b) in subsection (3) —

(i) in paragraph (c), omit the words from the beginning to "works, or", and

(ii) omit paragraphs (e) and (f);

² 1985 c.24

- (c) in subsection (7), omit "within the time thereby limited";
- (d) after subsection (8) insert —

"(8A) In any such proceedings as are mentioned in subsection (8) it shall be a defence for the person accused, or from whom the expenses are sought to be recovered, as the case may be, to show that at the material time the premises in respect of which the notice was issued had ceased to be premises of a description prescribed under section 4C(1)(a) of the Litter Act 1972."

(6) A litter control notice shall cease to have effect on the expiration of 5 years beginning with the date specified in it under subsection (2)(d), but without prejudice to —

- (a) any liability for, or proceedings arising from, a failure to comply with it before it ceased to have effect; or
- (b) a further litter control notice served in respect of the same premises (which may be served either before or after the previous notice ceases to have effect).

4D. Registers of orders and notices

(1) Every local authority shall forthwith send to the Department a copy of —

- (a) any litter control notice served by it, and
- (b) any order made on an appeal under section 58(3) of the Local Government Act 1985 relating to any such notice.

(2) The Department shall —

- (a) maintain a register containing copies of —
 - (i) all orders made under section 4A(1)(c); and
 - (ii) all notices and orders, copies of which are sent to it under subsection (1) (other than notices, and orders relating to notices, which have expired under section 4C(6));
- (b) secure that the register is available for inspection by the public free of charge at all reasonable times; and
- (c) afford to members of the public facilities for obtaining copies of the documents kept in the register, on payment of such reasonable charges as the Department may determine."

2. Functions of local authorities

After section 5A of the Litter Act 1972 insert —

"5B. Provision of litter bins

Where it appears to a local authority reasonably necessary to do so, the authority shall provide and maintain —

- (a) in any street in its district, and
- (b) in any other public place in its district which is under its control,

bins or other receptacles for the collection and temporary deposit of litter, and shall make arrangements for them to be regularly emptied.

5C. Litter officers

(1) Every local authority shall designate one or more persons for the purpose of exercising —

- (a) its functions under section 2 (enforcement), and
- (b) any other functions of the authority under this Act.

(2) In relation to proceedings for an offence under this Act, a person designated under subsection (1) shall be deemed to be an officer of the local authority for the purpose of section 53 (appearance by local authorities) of the Local Government Act 1985³."

3. Short title and commencement

(1) This Act may be cited as the Litter (Amendment) Act 2003.

(2) This Act shall come into operation on such day as the Department of Local Government and the Environment may by order appoint.

³ 1985 c.24