



Isle of Man

Ellan Vannin

AT 14 of 1972

LITTER ACT 1972



Isle of Man

Ellan Vannin

LITTER ACT 1972

Index

Section	Page
1 Penalty for leaving litter	5
2 Enforcement.....	6
3 Court orders for removal of litter	6
4 Removal and disposal of litter on failure to comply with order to remove same	7
4A Litter in designated places.....	7
4B Litter control notices.....	8
4C Litter control notices: supplemental.....	9
4D Registers of orders and notices	11
5 Power of constable to require person to give his name and address	11
5A Fixed penalty for leaving litter.....	11
5B Provision of litter bins.....	12
5C Litter officers.....	12
6 Short title and commencement	13
ENDNOTES	15
TABLE OF LEGISLATION HISTORY	15
TABLE OF RENUMBERED PROVISIONS	15
TABLE OF ENDNOTE REFERENCES	15

**Isle of Man***Ellan Vannin*

LITTER ACT 1972

Received Royal Assent: 14 August 1972
Passed: 17 October 1972
Commenced: 1 January 1973

AN ACT to make provision for the abatement of litter.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Local Government (Miscellaneous Provisions) Act 1984 s 16* and by the *Criminal Justice (Penalties, Etc.) Act 1993 s 1*.

1 Penalty for leaving litter

[L.A. 1958/1P]

- (1) If any person throws down, abandons, drops or otherwise deposits in, into or from any place in the open air to which the public are entitled or permitted to have access without payment, or any place to which section 4A applies, and leaves, any thing whatsoever in such circumstances as to cause, contribute to, or tend to lead to, the defacement by litter of any place in the open air, then, unless that depositing and leaving was authorised by law or was done with the consent of the owner, occupier or other person or authority having the control of the place in or into which that thing was deposited, he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £2,500; and for the purposes of this subsection any covered place open to the air on at least one side and available for public use shall be treated as being a place in the open air.¹
- (2) In sentencing a person convicted of an offence under this section the court shall have regard not only to the purpose of the Act in preventing the defacement by litter of places, but also to the nature of the litter or any resulting risk (in the circumstances of the offence) of injury to persons or animals or of damage to property.²
- (3) Subject to subsection (4), and without prejudice to any exception under subsection (1), where a person is charged with an offence under this section of depositing and leaving any thing on any land, he shall be convicted if it is proved —

- (a) that the thing was left there in the circumstances mentioned in subsection (1), and
 - (b) that he had at some time been in possession or control of it.³
- (4) Where subsection (3) applies, it shall be a defence for such a person to prove either –
- (a) that the thing was deposited and left there by some other person; or
 - (b) that he ceased to be in possession or control of it by delivering it to some other person (whether for the purpose of disposal or otherwise) or by its being taken against his will;

but he shall not be entitled to raise a defence under this subsection unless, before the beginning of the period of 7 days ending with the date when the hearing of the charge is begun, he serves on the prosecutor a notice identifying that other person (if any) and specifying the circumstances in which the thing was deposited and left, delivered or taken as the case may be.⁴

2 Enforcement

This Act shall be enforceable in the name of and at the suit of any of the following, namely: –

- (a) the Attorney General;
- (b) the Chief Constable or any other police officer; or
- (c) for an offence committed within the district of a local authority, that local authority.

3 Court orders for removal of litter

- (1) On a person being convicted of an offence under section 1 of this Act the court on the application of the prosecutor may make an order directing that person to remove anything in respect of which he was so convicted from the place where it was left within a time specified by the court.
- (2) If any person fails to comply with the terms of an order made under the preceding subsection he shall be guilty of a further offence and shall be liable on summary conviction to a fine not exceeding £1,000.
- (3) Nothing in this section shall serve to prevent the removal of anything in respect of which an offence is committed under section 1 of this Act by a person other than the person guilty of that offence.
- (4) The removal of anything in respect of which an order has been made under subsection (1) above before the expiration of the time specified by the court by a person other than the person directed to remove the same by the said order shall discharge the said order and no penalty shall be incurred by the second mentioned person.

4 Removal and disposal of litter on failure to comply with order to remove same

- (1) Where an order made under section 3(1) of this Act is not complied with the court which made the said order may, on application made in the prescribed manner by the appropriate authority, by order authorise the said authority to remove and dispose of the thing in respect of which the first mentioned order was made.
- (2) Any expenses reasonably incurred by the said authority in removing and disposing of anything under the authority of an order made under the preceding subsection may be defrayed out of any money obtained by the said authority from the disposal of it and, in so far as they are not defrayed, shall be recoverable summarily as a civil debt.
- (3) No application shall be made under subsection (1) above after the expiration of three months from the last day upon which anything is required to be removed from a place pursuant to an order made under section 3(1) of this Act.
- (4) In any case where the prosecutor is not the appropriate authority the prosecutor shall immediately notify the said authority of the fact that an order made under section 3(1) of this Act has not been complied with.
- (5) In this section —
“appropriate authority” means the local authority in whose district the place from which the thing in respect of which an order under section 3(1) of this Act was made is situated;
“prescribed” means prescribed by rule of court.

4A Litter in designated places

- (1) This section applies to any place (other than a highway) —
 - (a) to which the public are entitled or permitted to have access (whether on payment or otherwise),
 - (b) which is used —
 - (i) as a place where motor vehicles may be left for any period, not being part of the curtilage of a private dwelling; or
 - (ii) as a means of access to premises used for the sale of goods by retail or for the provision of financial services; and
 - (c) which is designated for the purposes of this section by an order made by the local authority for the district in which it is situated.
- (2) An order under subsection 1(c) shall not have effect unless it is approved by the Department.

- (3) The occupier of any place to which this section applies shall, as often as may be appropriate, take such steps as are reasonably necessary to secure that the place is kept clear of litter.
- (4) If it appears to the local authority that the occupier of any place to which this section applies, being a place in its district, has failed to comply with subsection (3), it may serve a notice on the occupier requiring him to take such steps as may be specified in the notice to clear the place of litter.
- (5) The Department may issue a code of practice setting out the manner in which the duty imposed by subsection (3), and the powers of the local authority to take steps in default conferred by section 58(7)(b) of the *Local Government Act 1985*, ought to be performed or exercised; and the court shall have regard to the code on an appeal against a notice under subsection (4).
- (6) A code of practice issued under subsection (5) shall be laid before Tynwald.⁵

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 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).⁶

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 1985* (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);
 - (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 section 4B(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).⁷

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.⁸

5 Power of constable to require person to give his name and address

- (1) A person whom a constable has reasonable cause to believe to have committed an offence under section 1 of this Act shall on being so required by such constable give his name and address and if he refuses to do so he shall be liable on summary conviction to a fine not exceeding £200.
- (2) A constable may arrest without warrant any person who refuses to give his name and address when required to do so in accordance with the preceding subsection.

5A Fixed penalty for leaving litter

- (1) Where a constable or an authorised officer of a local authority has reasonable cause to believe that a person has committed or is committing an offence under section 1 of this Act, he may give that person a notice in writing in the prescribed form offering the opportunity of discharging any liability to be convicted of that offence by payment of a fixed penalty under this section.
- (2) A person to whom a notice is given under this section in respect of an offence shall not be liable to be convicted of that offence if the fixed penalty is paid in accordance with this section before the expiration of 14

days following the date of the notice or such longer period (if any) as may be specified in the notice.

- (3) Where a person is given a notice under this section in respect of an offence, criminal proceedings shall not be taken against any person for the act constituting that offence before the expiration of 14 days following the date of notice, or such longer period (if any) as may be specified in the notice.
- (4) The amount of a fixed penalty under this section shall be £50.⁹
- (4A) The Department may by order substitute a different amount for the amount for the time being specified in subsection (4).¹⁰
- (4B) An order under subsection (4A) shall not have effect unless it is approved by Tynwald.¹¹
- (5) Payment of a fixed penalty under this section shall be made —
 - (a) where the notice under this section was given by a constable, to the Chief Registrar, to be applied as a fine imposed by a criminal court;
 - (b) otherwise, to the local authority concerned.¹²
- (6) In any proceedings a certificate purporting to be signed by or on behalf of the Chief Registrar that payment of a fixed penalty under this section was or was not made in accordance with subsection (5) by a date specified in the certificate shall be evidence of the fact stated.¹³
- (7) In this section “prescribed” means prescribed by regulations made by the Department.¹⁴

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.¹⁵

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 1985*.¹⁶

6 Short title and commencement

- (1) This Act may be cited as the Litter Act 1972.
- (2) This Act shall come into force when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys but shall take effect on such day as the Governor may by order appoint.¹⁷
- (3) In this Act “**the Department**” means the Department of Infrastructure.¹⁸

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ Subs (1) amended by Public Health Act 1990 s 79.
- ² Subs (2) amended by Public Health Act 1990 Sch 6.
- ³ Subs (3) added by Public Health Act 1990 s 78.
- ⁴ Subs (4) added by Public Health Act 1990 s 79(1).
- ⁵ S 4A inserted by Public Health Act 1990 s 79.
- ⁶ S 4B inserted by Litter (Amendment) Act 2003 s 1.
- ⁷ S 4C inserted by Litter (Amendment) Act 2003 s 1.
- ⁸ S 4D inserted by Litter (Amendment) Act 2003 s 1.
- ⁹ Subs (4) amended by SD688/02.
- ¹⁰ Subs (4A) inserted by Local Government (Miscellaneous Provisions) Act 2001 s 6.
- ¹¹ Subs (4B) inserted by Local Government (Miscellaneous Provisions) Act 2001 s 6.
- ¹² Subs (5) substituted by Local Government Act 2006 s 16 with saving.
- ¹³ Subs (6) amended by Law Reform Act 1997 Sch 5.
- ¹⁴ S 5A inserted by Public Health Act 1990 s 78. Subs (7) added by Statute Law Revision Act 1992 Sch 1.
- ¹⁵ S 5B inserted by Litter (Amendment) Act 2003 s 2.
- ¹⁶ S 5C inserted by Litter (Amendment) Act 2003 s 2.
- ¹⁷ ADO (whole Act) 1/1/1973 (GC125/72).
- ¹⁸ Subs (3) added by Statute Law Revision Act 1992 Sch 1 and amended by SD155/10 Sch 5.