



Number 12 of 1997

LITTER POLLUTION ACT 1997

REVISED

Updated to 31 March 2024

This Revised Act is an administrative consolidation of the *Litter Pollution Act 1997*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Road Traffic Act 2024 (10/2024)*, enacted 17 April 2024, and all statutory instruments up to and including the *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Commencement) Order 2024 (S.I. No. 123 of 2024)*, made 28 March 2024, were considered in the preparation of this Revised Act.

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AN ACT TO PROVIDE FOR THE PREVENTION AND CONTROL OF LITTER POLLUTION, THE PREVENTION, OF THE DEFAACEMENT OF CERTAIN PLACES AND MATTERS RELATING THERETO. [18th April, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

SHORT TITLE AND INTERPRETATION

Short title. **1.** — This Act may be cited as the Litter Pollution Act, 1997.

Interpretation. **2.** — (1) In this Act, unless the contrary intention appears—

F1["Act of 2022" means the Circular Economy and Miscellaneous Provisions Act 2022;

"approval", in relation to a proposal under *section 23A*, means an approval given under *section 23A(5)* or renewed under *section 23A(11)* in respect of the CCTV scheme which is the subject of the proposal;

"approved CCTV scheme" means a CCTV scheme which is the subject of a proposal in respect of which an approval is in being;

"authorised person" means a person who is appointed in writing by a local authority to be an authorised person for the purposes of this Act or any provisions thereof as the local authority determines;

"automatic number plate recognition device" means a device which engages an automated method of recognising vehicle registration plates from a camera image;

"biometric data" has the meaning given to it by section 69(1) of the Data Protection Act 2018;

"CCTV scheme" has the meaning given to it by *section 23A(1)*;

"closed circuit television" or "CCTV" means a system of recording devices the signals of which are not made publicly available but are monitored, or are capable of being monitored, by a local authority;

"code of practice" means a code of practice approved by the Minister in accordance with *section 23B* and includes part of a code of practice;

"facial recognition device" means a device or system of devices which, through automated use of biometric data, matches or categorises facial images captured by the device;]

" deposit ", in relation to a substance or object that can constitute litter in respect of any place, means to throw, drop, dump, abandon or discard the substance or object, as the case may be, or allow it to escape or be released in or into the place;

" footway " has the meaning assigned by the Roads Act, 1993;

" functions " includes powers and duties and a reference to the performance of a function includes, with respect to powers and duties, a reference to the exercise of the powers and the carrying out of the duties;

" hire-drive agreement ", in relation to a mechanically propelled vehicle, means an agreement under which the vehicle is hired from its registered owner, other than—

(a) a hire-purchase agreement,

(b) an agreement merely for the carriage of persons or goods,

(c) an agreement under which the registered owner of the vehicle drives, or provides a driver for, the vehicle;

" land " includes any structure and any land covered by water;

" litter " means a substance or object, whether or not intended as waste (other than waste within the meaning of the Waste Management Act, 1996, which is properly consigned for disposal) that, when deposited in a place other than a litter receptacle or other place lawfully designated for the deposit, is or is likely to become unsightly, deleterious, nauseous or unsanitary, whether by itself or with any other such substance or object, and regardless of its size or volume or the extent of the deposit;

" litter receptacle " means a receptacle designated or otherwise apparently intended to be used for the deposit of litter;

" litter warden " means a person authorised by a local authority to perform, on behalf of the local authority, the functions of the local authority and of a litter warden under this Act;

" local authority " means, in the case of—

(a) a county, other than any borough or urban district therein, the council of the county,

(b) a county or other borough, the corporation of the county or other borough, and

(c) an urban district, the council of the urban district,

and a reference to the functional area of a local authority shall be construed accordingly;

" mechanically propelled vehicle " has the meaning assigned by the Road Traffic Act, 1961;

" the Minister " means the Minister for the Environment;

" occupier ", in relation to any place or thing, means the person occupying, whether legally or otherwise, the place or thing and includes any other person having, for the time being, control of the place or thing;

F1["operation", in relation to closed circuit television, includes the maintenance and monitoring of closed circuit television;]

“prescribed” means prescribed by regulations made by the Minister;

“public place” means any place to which the public has access whether as of right or by permission and whether subject to or free of charge;

“public road” has the meaning assigned by the Roads Act, 1993;

F1[“recording device” means a device that is capable of recording or processing, or both, visual images or audio, or both, on any medium, from which a visual image or moving visual images may be produced and includes any accompanying document, and, where only visual images or moving visual images are concerned, includes any sound accompanying those images but does not include automatic number plate recognition devices or facial recognition devices;]

“registered owner”, in respect of a vehicle, has the meaning assigned by the Road Traffic Act, 1961;

“roadway” has the meaning assigned by the Roads Act, 1993.

(2) In this Act, unless the contrary intention appears, a reference to—

- (a) a section or Part is a reference to a section or Part of this Act,
- (b) a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, and
- (c) an enactment includes a reference to that enactment as amended.

PART II

LITTER POLLUTION GENERALLY

Prohibitions
related to
littering.

3. — (1) No person shall deposit any substance or object so as to create litter in a public place or in any place that is visible to any extent from a public place.

(2) No person shall—

- (a) deposit any thing that is commercial, household, industrial or municipal waste in any place for collection by or on behalf of a local authority or by another person, or
- (b) load, transport, unload or otherwise handle or process any thing or carry on a business, trade or activity

in such circumstances as to create litter or lead to litter in any public place or any place that is visible to any extent from a public place.

(3) No person shall place municipal waste into or near a litter receptacle.

(4) No person shall move or interfere with a litter receptacle that has been provided by a local authority or other person unless the movement or interference is authorised by the local authority or other person.

(5) For the purposes of *subsection (3)*, “municipal waste” has the meaning assigned by [section 5 of the Waste Management Act, 1996](#).

(6) A person who contravenes any provision of this section shall be guilty of an offence.

Obligations to prevent litter.

4. — (1) A person who is the registered owner or is in charge of a vehicle being used to transport goods or materials shall take measures to prevent the creation of litter from the vehicle on a public road or in a public place.

(2) A person who is the owner or is in charge of a skip designed or used for carriage on a vehicle and that is parked or situated in a public place shall take measures to prevent the creation of litter in the vicinity of the skip.

(3) A person who contravenes any provision of this section shall be guilty of an offence.

(4) Where a person is charged with an offence under this section, it shall be a good defence for the person to show that any litter created as a result of a failure to take measures to prevent the occurrence was removed and properly disposed of as soon as practicable after being created.

Certain activities not prohibited.

5. — Nothing in *section 3* shall be construed as prohibiting—

(a) the deposit of waste in a receptacle or place provided for the purpose of such waste,

(b) the deposit in any place of a receptacle containing any commercial, household, municipal or industrial waste for collection by or on behalf of a local authority or by another authorised waste collector within the meaning of the Waste Management Act, 1996, or

(c) the deposit of waste at a civic waste facility, within the meaning of *section 38* of the *Waste Management Act, 1996*,

provided that reasonable care is taken to prevent the creation of litter.

Duty of occupiers, etc., regarding littering.

6. — (1) The occupier of a public place (not being a public road or a building or other structure) shall keep the place free of litter.

(2) The occupier of any land (other than land consisting of a building or other structure) that is not a public place shall keep the land free of litter that is to any extent visible from a public place.

(3) The owner of any land appurtenant to a residence that is let in two or more dwelling units (not being separate hereditaments) shall, notwithstanding the obligation of an occupier under *subsection (2)* in relation to land, keep the land free of litter that is to any extent visible from a public place.

(4) Every occupier of land adjoining a public road in respect of which a built-up area speed limit or special speed limit has been established in the functional area of a local authority shall keep free from litter—

(a) any footway adjoining the land and forming, or forming part of, a public road, and

(b) any area of land forming part of a public road between any such footway and the roadway.

(5) No person shall, in carrying out the obligation under *subsection (4)*, deposit any substance or object so as to create litter on a roadway or in any other place.

(6) A person who contravenes any provision of this section shall be guilty of an offence.

PART III

LOCAL AUTHORITY FUNCTIONS AND DUTIES GENERALLY

Duty respecting public roads.

7. — A local authority shall ensure that each public road in its functional area is, so far as practicable, kept free of litter.

Prevention of creation of litter.

8. — (1) A local authority shall take all practicable measures for the prevention of the creation, and for the prevention and overcoming of the polluting effects, of litter in its functional area and for the control and disposal of litter and, for those purposes, may enter into arrangements with, or assist, other persons (including other local authorities) for or in the taking of such measures on behalf of the authority.

(2) Measures taken pursuant to *subsection (1)* shall include—

(a) measures for the collection and disposal of litter,

(b) measures to promote awareness of the polluting effects of litter,

(c) measures to encourage participation by persons in preventing and overcoming the polluting effects of litter and in the collection and disposal of litter including the provision and maintenance, in public places and adjacent to public roads, of litter receptacles of such type and quantity as the local authority considers necessary to prevent the creation of litter, and

(d) the undertaking of works and the provision of facilities and services in relation to litter, including publicity, advisory and educational services.

(3) Where a local authority provides and maintains litter receptacles at any place, it shall make arrangements for the regular emptying and cleaning of such receptacles at such frequency as will ensure that no such receptacle or its contents will become a nuisance or be the cause of litter.

(4) A local authority may empty and clean litter receptacles that are provided by any other person.

Notices requiring the removal of litter.

9. — (1) Where it appears to a local authority that a person is contravening any provision of *section 6* or that precautionary measures are required to prevent the creation of litter in the functional area of the local authority, the local authority may serve a notice on the person requiring the person to remove the litter to which the contravention relates or take such other precautionary measures specified in the notice as the local authority considers necessary.

(2) A notice under *subsection (1)* shall—

(a) identify the place or land to which it relates,

(b) state the grounds on which it is issued, and

(c) specify the time within which it is to be complied with.

(3) A person on whom a notice under this section is served may, within such time as may be specified in the notice, make submissions in writing to the local authority concerned regarding the terms of the notice and the authority, after consideration of any such submissions, may amend the notice.

(4) A person on whom a notice under this section is served shall, within the time specified in the notice, comply with its terms.

(5) Where a person fails to comply with a notice served on the person under this section, the local authority concerned may, by its employees or agents—

(a) give effect to the terms of the notice, and

(b) where necessary for that purpose, by its employees or agents enter into the place or on the land concerned,

and may recover the expenditure reasonably incurred by it in so doing from the person as a simple contract debt in any court of competent jurisdiction.

(6) A local authority may, upon such terms and conditions as may be agreed upon by it and the person concerned, in the case of any litter in respect of which this section applies—

(a) by its employees or agents remove the litter or, as may be appropriate, take other steps in relation to it, and

(b) for those purposes, by its employees or agents, enter into the place or on the land concerned.

(7) Any person who contravenes *subsection (4)* or obstructs or impedes a local authority or its employees or agents acting in the exercise of the functions conferred on a local authority by this section shall be guilty of an offence.

Litter management plan required.

10. — (1) Where, on the date of the coming into operation of this section, no litter management plan within the meaning of *section 11* has been made and implemented in respect of the functional area of a local authority, the local authority shall, within 6 months after this section comes into operation—

(a) make and implement a litter management plan in respect of its functional area, or

(b) make and implement jointly with one or more other local authorities, a litter management plan a part of which relates to the functional area of each of the local authorities.

(2) A local authority shall review its litter management plan at least once in each period of 3 years after the plan is first implemented and, if the local authority deems it necessary after the review, shall amend or replace the plan.

(3) A local authority shall, not later than the thirty-first day of March, 1998, and that date in each year thereafter, prepare a report for consideration by the council or corporation, as the case may be, on the operation of this Act in the functional area of the local authority indicating the measures taken by the local authority in the previous calendar year in relation to the prevention and control of litter.

(4) Without prejudice to the generality of *subsection (3)*, a report under that subsection shall assess—

(a) all litter prevention and control programmes undertaken,

(b) the extent of enforcement action taken under this Act,

(c) the extent to which measures were taken to promote public awareness, including educational and information measures, and

(d) the co-operation and assistance given by persons other than the local authority for the purposes of preventing and controlling litter.

Requirements of litter management plan.

11. — (1) A litter management plan shall—

(a) specify such objectives as the local authority deems are appropriate to prevent and control litter in its functional area,

(b) specify the measures to encourage public awareness with a view to eliminating litter pollution, including educational and information measures directed at young persons,

- (c) specify the measures or arrangements that are to be undertaken by the local authority in order to attain the objectives of the plan, and
- (d) include information on, or be formulated having regard to—
- (i) an appraisal of all existing litter prevention and control programmes being operated by the local authority,
 - (ii) the policies and objectives of the local authority in relation to the prevention and control of litter,
 - (iii) the measures which, in so far as the local authority can determine, will or may be taken during the relevant period by persons other than the local authority for the purposes of preventing and controlling litter,
 - (iv) the facilities at which waste may be deposited by members of the public for recovery or disposal within the meaning of the Waste Management Act, 1996,
 - (v) the steps to be taken by the local authority to enforce the provisions of this Act in its functional area, and
 - (vi) any incidental and ancillary matters.

(2) A litter management plan may specify objectives to be attained in litter prevention and cleanliness for designated areas within its functional area and different objectives may be specified for different areas or classes of area.

(3) In making or reviewing a litter management plan, the local authority shall have regard to the proper planning and development of its functional area and shall, for that purpose, have regard to the provisions of the development plan and any special amenity area order made under the Local Government (Planning and Development) Act, 1963, for the time being in force in relation to the area and the provisions of any waste management plan made under the Waste Management Act, 1996.

(4) Where objectives referred to in *subsection (2)* are specified in a litter management plan, the local authority shall take such steps as it deems appropriate and necessary to attain the objectives.

Procedure for making, amending or replacing litter management plan.

12. — (1) Where a local authority proposes to make, amend or replace its litter management plan under *section 10*, it shall—

- (a) publish in one or more newspapers circulating in its functional area a notice of the proposal and arrange for the broadcasting of an announcement in respect of the proposal at least once on 3 successive days on one or more local radio stations broadcasting in that area, and
- (b) consult with such voluntary and representative bodies as the local authority deems appropriate concerning the steps which the local authority and the bodies that agree to participate in the consultations are to take in connection with the plan.

(2) A notice of proposal under *subsection (1)(a)* shall indicate—

- (a) whether the proposal is to make, amend or replace a litter management plan,
- (b) that a copy of a summary of the proposed plan, amendment or replacement plan, as the case may be, may be obtained from the local authority free of charge, and
- (c) that written submissions made to the local authority in relation to the proposed plan, amendment or replacement plan will be taken into consideration by the local authority before the plan is made, amended or implemented.

(3) A local authority, in its absolute discretion, may permit any person who has made submissions referred to in *subsection (2)(c)* to make oral presentation on the submissions to, or to discuss specific proposals with, the local authority.

(4) After considering the submissions referred to in *subsection (2)(c)* and any discussions referred to in *subsection (3)*, the local authority may, as the case requires, make and implement the litter management plan, make and implement such amendment to the plan or implement such replacement plan as the local authority deems appropriate in the circumstances.

(5) As soon as possible after the making, amendment to or replacement of a litter management plan under this section, the local authority concerned shall publish and distribute the plan, amended plan or replacement plan, or a suitable outline thereof, as widely as possible in its functional area to such extent as will, in its opinion, give adequate publicity to the plan.

(6) An outline referred to in *subsection (5)* shall indicate—

- (a) the extent and purpose of the plan,
- (b) the methods by which the plan is proposed to be implemented, and
- (c) the place where copies of the plan may be obtained.

Duties are a reserved function of local authority.

13. — (1) The making, review, amendment or replacement of a litter management plan under *section 10* or *12* shall be a reserved function.

(2) For the purposes of *subsection (1)*, “ reserved function ” means—

- (a) in relation to the council of a county or an elective body, a reserved function for the purposes of the County Management Acts, 1940 to 1994,
- (b) in relation to the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough.

Immunity of local authorities, etc., from liability.

14. — No action or other proceeding shall lie or be maintainable against a local authority, a litter warden or any other officer or employee of a local authority or a member of the Garda Síochána for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to exercise any function conferred or imposed on the local authority by or under this Act.

PART IV

LITTERING-RELATED MATTERS

Mobile outlets.

15. — (1) The owner, occupier or person in charge of a mobile outlet that is used wholly or partly for the sale of produce, food or drink shall, at all times when the outlet is open to customers—

- (a) provide and maintain adequate litter receptacles in order to prevent the creation of litter at or in the vicinity of the outlet while it is in operation,
- (b) ensure that any litter caused by the operation of the outlet is removed from the vicinity within a reasonable distance not exceeding a distance of 100 metres from the location of the outlet, and
- (c) comply with the conditions set out in any notice under *subsection (2)* served on the owner, occupier or person in charge, as the case may be.

(2) A local authority may, in relation to any public place at or in which a mobile outlet referred to in *subsection (1)* is to be located and operated, by notice require the owner, occupier or person in charge of the outlet, in addition to the requirements of *subsection (1)*, to comply with such conditions in relation to the location and operation of the outlet as the local authority deems necessary for the prevention or removal of litter at or in the vicinity of the outlet.

(3) A person who contravenes *subsection (1)* or fails to comply with a notice directed to the person under *subsection (2)* shall be guilty of an offence.

Powers of local authorities to require the taking of special measures regarding litter by certain operations.

16. — (1) Without limiting the application of *section 6(4)*, where it appears to a local authority that special measures are required to be taken by an occupier of any premises to which this section applies in order to prevent or limit the creation of litter at the premises or on land in the vicinity thereof, or both, caused or likely to be caused by the operation of the business or undertaking of the occupier, the local authority may, by notice served on the occupier, require the occupier to take such measures at the premises or on land in the vicinity thereof as the local authority considers necessary to prevent or limit the creation of litter and provide for its removal.

(2) A notice under *subsection (1)* —

- (a) shall identify the premises or the land in the vicinity thereof, or both, to which the notice relates,
- (b) shall specify the measures required to be taken by the occupier to prevent or limit the creation of litter at the premises or on the land, or both, and to provide for its removal, and
- (c) may specify that the occupier may, at the option of the occupier and in lieu of complying with the measures referred to in *paragraph (b)*, make a financial contribution to the local authority in an amount specified in the notice towards the estimated cost to the local authority of collecting and removing the litter caused or likely to be caused by the operation of the business or undertaking of the occupier.

(3) A local authority shall, in determining the measures required to be taken by an occupier of premises pursuant to a notice under this section, in addition to such other factors as may be relevant in the circumstances, have due regard to—

- (a) the nature and quantity of litter caused or likely to be caused at or on land in the vicinity of the premises, or both, which exceeds the nature or quantity that would ordinarily be caused if the occupier's business or undertaking was not being operated at those premises, and
- (b) the duties of the local authority under this or any other Act in respect of the land in the vicinity of the premises.

(4) Before exercising any functions conferred on it by *subsection (1)*, the local authority shall advise the occupier of the nature and extent of the measures that the local authority proposes to specify under *subsection (2)(b)* and provide the occupier with an opportunity within a specified time to make submissions in writing to the local authority in relation to the proposed measures, and the local authority, having considered any such submissions, may amend the proposed measures or confirm or revoke the proposed measures, and shall inform the occupier of such amendment, confirmation or revocation as soon as possible thereafter.

(5) An occupier of premises who is dissatisfied with any of the terms of a notice directed to the occupier under this section may, within 21 days after receipt of the notice, appeal the matter to the District Court having jurisdiction in the District Court district in which the premises or part of the premises are situated and the Court may confirm or annul the notice, confirm or vary any of the terms thereof or provide such

other relief or impose such other requirement in relation to the notice and the occupier as the Court deems appropriate in the circumstances.

(6) An occupier on whom a notice has been served who—

- (a) fails to comply with the measures specified therein referred to in *subsection (2)(b)*, and
- (b) is not relieved from the obligation to comply by virtue of having made to the local authority the specified financial contribution referred to in *subsection (2)(c)*,

shall be guilty of an offence.

(7) Nothing in a notice directed to an occupier under this section shall be construed as requiring or authorising the occupier—

- (a) to enter into or do anything in any place if the person who lawfully occupies the place does not permit the entry, or
- (b) to collect or remove litter from a roadway at a time when it is open to vehicular traffic.

(8) Any financial contribution made to a local authority pursuant to this section shall be used by the local authority solely for the prevention and limitation of the creation of litter and the removal of litter in respect of the premises or land, or both, in relation to which the financial contribution is made.

(9) This section applies to an occupier of any premises that are used wholly or partly for the purposes of—

- (a) the sale of confectionery, food or drink for consumption off the premises,
- (b) the sale of food or drink for consumption on a part of the premises forming open land adjacent to or in the vicinity of the premises,
- (c) the sale to the public of fuel for motor vehicles,
- (d) a cinema, theatre, concert hall or leisure centre, an amusement arcade or an area for other indoor or outdoor sport or recreation,
- (e) a financial institution, having automated equipment for withdrawals, deposits or payments located on an outside location at the premises,
- (f) a bookmaking (gaming) business,
- (g) a bus or rail station, airport or seaport,
- (h) a public car park,
- (i) a retail shopping centre,
- (j) a public business or office park or an industrial or trading estate,
- (k) a public market, whether on a public road, on public land or otherwise,
- (l) a camping, caravan or mobile home site,
- (m) a school or college,
- (n) a right of way restricted to the use of rail vehicles, or
- (o) such other purpose as may be prescribed.

(10) For the purposes of this section—

“land” means land adjoining the premises to which a notice under this section relates that is part of—

- (a) any footway adjoining the land and forming, or forming part of, a public road, and
- (b) any area of land forming part of a public road between any such footway and the roadway;

“land in the vicinity” means, in respect of premises of an occupier, land within a reasonable distance, as specified in a notice to the occupier under this section, not exceeding 100 metres of the premises.

Powers of local authorities to require the taking of measures regarding litter creation by major events.

17. — (1) Where it appears to a local authority that measures are required to be taken in order to prevent or limit the creation of litter in a public place or in a place that is to any extent visible from a public place caused, or likely to be caused, by the holding of an event or series of events at which large numbers of persons are likely to be present, the local authority may serve a notice on the person who is the promoter or organiser of the event or events or on such other person as appears to the local authority to be associated with the organisation of the event or events, requiring the person to take such measures as the local authority considers necessary to prevent or limit the creation of litter and provide for its removal.

(2) A notice under *subsection (1)* —

- (a) shall specify the measures required to be taken before, during and after the event or events at or in the vicinity of the event or events by the person to whom the notice is directed to prevent or limit the creation of litter and provide for its removal,
- (b) may require the person to whom the notice is directed to provide to the local authority, in a form approved by it, a deposit in an amount specified in the notice as security to be realised by the local authority in the event that the measures referred to in *paragraph (a)* are not taken by the person to the satisfaction of the local authority, and
- (c) may specify that the person to whom the notice is directed may, at the option of the person and in lieu of complying with the measures referred to in *paragraph (a)* and with a requirement referred to in *paragraph (b)*, make a financial contribution to the local authority in an amount specified in the notice toward the estimated cost to the local authority of collecting and removing the litter that will result from the event or events.

(3) Before serving a notice on a person under *subsection (1)*, the local authority shall advise the person of the nature and extent of the measures that the local authority proposes to specify under *subsection (2)(a)* and provide the person with an opportunity within a specified time to make submissions in writing to the local authority in relation to the proposed measures, and the local authority, having considered any such submissions, may amend the proposed measures or confirm or revoke the proposed measures, and shall inform the person of such amendment, confirmation or revocation as soon as possible thereafter.

(4) A person on whom a notice has been served who—

- (a) fails to comply with a requirement referred to in *subsection (2)(a)* or *(b)*, and
- (b) is not relieved from the obligation to comply by virtue of having made to the local authority the specified financial contribution referred to in *subsection (2)(c)*,

shall be guilty of an offence.

(5) A local authority may take such steps as it considers reasonable and necessary in order to remedy any failure to comply by a person referred to in *subsection (4)(a)*, and may recover the reasonable costs thereby incurred from the person as a simple contract debt in any court of competent jurisdiction.

(6) Any financial contribution made to a local authority pursuant to this section shall be used by the local authority solely for the prevention and limitation of the creation of litter and the removal of litter in respect of the event or events in relation to which the financial contribution was made.

Powers of local authorities to take measures to prevent or limit litter creation by major events.

18. — (1) Where it appears to a local authority that—

- (a) measures are required to be taken in order to prevent or limit the creation of litter in a public place or in a place that is visible from a public place caused, or likely to be caused, by the holding of an event or series of events at which large numbers of persons are likely to be present,
- (b) in the absence of steps being taken or operations being carried out by the local authority under this subsection, the creation of the litter will not be prevented or limited, and
- (c) due to the timing of the event or series of events, it is not practicable for the local authority to exercise its powers under *section 17* in relation to the event or series of events,

the local authority may take such steps or carry out such operations as it considers necessary to prevent or limit the creation of the litter.

(2) Where a local authority takes steps or carries out operations under *subsection (1)*, it may recover the reasonable costs of such steps or operations as a simple contract debt in a court of competent jurisdiction from such person as the local authority satisfies the court is a person whose promotion of the event or series of events, as the case may be, necessitated such steps or operations.

Prohibition of articles and advertisements on and defacement of certain structures, etc.

19. — F2[(1) Where any structure or other land, door, gate, window, tree, pole or post is in or is visible from a public place, a person who is not the owner, occupier or person in charge thereof shall not—

- (a) exhibit or cause to be exhibited thereon any article or advertisement, or
- (b) carry out or cause to be carried out any defacement thereof by writing or other marks,

unless, in either case, the person is authorised in advance to do so in writing by such owner, occupier or person in charge or by or under any enactment, and, in addition, in the case of paragraph (a), the article or advertisement—

- (i) if it relates to a meeting or an event, carries the name and address of the person who is promoting or arranging the meeting or event, and
- (ii) in any other case, carries the name and address of the person on whose behalf it is exhibited.]

F2[(2) A person shall not place advertising material on a mechanically propelled vehicle in a public place otherwise than by securing the material by some mechanical means to the body of the vehicle.]

F3[(2A) For the purposes of *subsection (2)*—

" body ", in relation to a mechanically propelled vehicle, does not include—

- (a) any windscreen wiper, wiperblade, mirror or aerial, or

(b) any other part of the vehicle concerned that is not specifically designed or adapted for the purpose of securing to it the material concerned;

" mechanical means " does not include any means relying on or involving any pressure (of whatever amount or in whatever direction) exerted by—

(a) any windscreen wiper or wiperblade, or

(b) any other part of the vehicle that is not specifically designed or adapted for the purpose of employing pressure in order to secure the material concerned to the body of the vehicle;

" place advertising material on a mechanically propelled vehicle " does not include paint, emboss, inscribe or apply by any method of transfer letters, figures or images on or to the body of the vehicle or place in the interior of the vehicle any such material.]

(3) Without limiting the liability of any other person under *subsection (1) or (2)*, where there is a contravention of that subsection in relation to—

(a) an advertisement that pertains to a meeting or other event, the person who is promoting or arranging the meeting or event, or

(b) any other advertisement, the person on whose behalf the advertisement is exhibited,

shall be deemed also to have contravened that subsection.

(4) A local authority may, on such terms and conditions as may be agreed upon by it and the occupier concerned, in the case of an article, advertisement or defacement in its functional area in relation to which there is a contravention of *subsection (1)*—

(a) by its employees or agents, remove or obliterate all or a part of the article or advertisement or, as the case may be, remove or otherwise remedy the defacement, and

(b) for those purposes, by its employees or agents, enter on the structure or other land concerned or the structure or other land on which is situated the door, gate, window, tree, pole or post concerned.

(5) In a prosecution of a person in relation to a contravention of *subsection (1)* it shall not be necessary for the prosecution to show and it shall be assumed, in the absence of evidence to the contrary, that the person was not the owner, occupier or person in charge of the structure or other land, door, gate, window, tree, pole or post to which the contravention relates and was not authorised as referred to in *subsection (1)*.

(6) A person who contravenes or is deemed to have contravened *subsection (1) or (2)* or who obstructs or impedes a local authority or its employees or agents acting in the exercise of the functions conferred on a local authority by *subsection (4)* shall be guilty of an offence.

(7) F4[Notwithstanding *subsection (6)*, it shall not be an offence for a person to exhibit an advertisement if the advertisement—

(a) is exempted development within the meaning of the Planning and Development Act 2000, or is a notice displayed or erected in pursuance of a requirement by or under any enactment,

(b) advertises a public meeting, other than an auction, unless the advertisement has been in place for 30 days or more prior to, or for 7 days or more after, the date specified in the advertisement for the meeting,

(c) relates to—

- (i) a presidential election within the meaning of the Presidential Elections Act 1993,
- (ii) a general election or a bye-election, within the meaning, in each case, of the Electoral Act 1992,
- (iii) a local election within the meaning of the Local Government Act 2001, F5[...]
- (iv) an election of members of the European Parliament under the F6[European Parliament Elections Act 1997 or,]
- F7[(v) a Limerick mayoral election, including a by-election, held in accordance with Part 1 of Schedule 2 to the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024, or
- (vi) a plebiscite within the meaning of Part 6 of the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024,]

unless the advertisement has been in place prior to the making of an order by the Minister appointing the day upon which the relevant poll shall be taken or for 30 days prior to the date of the poll, whichever is the shorter period, or for 7 days or more after the latest day upon which the poll was taken for the election or bye-election concerned,

(d) F8[...]

- (e) relates to a referendum, within the meaning of the Referendum Act 1994, unless the advertisement has been in place prior to the making of an order by the Minister appointing the day upon which the poll shall be taken, or for 7 days or more after the latest day upon which the poll was taken.]

(8) In this section and in *section 20* —

“ occupier ” in relation to a door, gate, window or tree, means the occupier of the structure or other land on which the door, gate, window or tree, as the case may be, is situated and, in relation to a pole or post, means the owner of the pole or post;

“ structure ” has the meaning assigned by the Local Government (Planning and Development) Act, 1963.

Powers of local authorities regarding articles and advertisements on, and defacement of, certain structures, etc.

20. — (1) Where any structure or other land, door, gate, window, tree pole or post situated in the functional area of any local authority is in or is visible from a public place and it appears to the local authority that it is in the interests of amenity or of the environment of an area that any article or advertisement exhibited thereon should be removed or any defacement thereof by writing or other marks should be removed or otherwise remedied or that other specified steps should be taken in relation to the article, advertisement or defacement, as the case may be, the local authority may serve a notice on the occupier requiring the occupier—

- (a) to remove the article or advertisement, or remove or otherwise remedy the defacement, or to take other specified steps in relation to the article, advertisement or defacement, as the case may be, and
- (b) to take other specified steps to prevent a recurrence of the exhibition or defacement, as the case may be.

(2) A notice under *subsection (1)* shall—

- (a) identify the structure or other land, door, gate, window, tree, pole or post to which it relates,
- (b) state the grounds on which it is issued, and

(c) specify the time, not being a period of less than 7 days, within which it is to be complied with.

(3) An occupier on whom a notice under this section is served may, within such time as may be specified in the notice, make submissions in writing to the local authority concerned regarding the terms of the notice and the authority, after consideration of any such submissions, may amend the notice.

(4) An occupier on whom a notice under *subsection (1)* has been served shall, within the time specified in the notice, comply with its terms.

(5) Where an occupier contravenes *subsection (4)*, the local authority concerned may, by its employees or agents—

(a) give effect to the terms of the notice, and

(b) where necessary for that purpose, by its employees or agents enter on the structure or other land concerned or the structure or other land on which is situated the door, gate, window, tree, pole or post concerned,

and may recover the expenditure reasonably incurred by it in so doing from the occupier as a simple contract debt in any court of competent jurisdiction.

(6) A local authority may, upon such terms and conditions as may be agreed upon by it and the occupier concerned, in the case of an article, advertisement or defacement to which *subsection (1)* applies—

(a) by its employees or agents remove the article or advertisement or remedy the defacement or, as may be appropriate, take other steps in relation to it, and

(b) for those purposes, by its employees or agents, enter on the structure or other land concerned or the structure or other land on which is situated the door, gate, window, tree, pole or post concerned.

(7) An occupier who contravenes *subsection (4)* or a person who obstructs or impedes—

(a) a local authority or its employees or agents acting in the exercise of the functions conferred on a local authority by *subsection (5)* or *(6)*, or

(b) a person or the person's employees or agents while engaged in complying with the terms of a notice issued under *subsection (1)*,

shall be guilty of an offence.

(8) In a prosecution for an offence in respect of a contravention of *subsection (4)*, it shall be a defence to show that the exhibition of the advertisement concerned was in accordance with a permission under Part IV of the Local Government (Planning and Development) Act, 1963.

(9) Any development, within the meaning of the Local Government (Planning and Development) Act, 1963, carried out pursuant to a notice issued under *subsection (1)*, shall be exempted development within the meaning of that Act.

F9[Power of local authorities to make bye-laws in relation to litter.

21. — (1) A local authority may make bye-laws for the purposes of preventing the creation of, and controlling, litter within its functional area.

(2) Without prejudice to the generality of *subsection (1)*, bye-laws made under that subsection may make provision for all or any of the following matters:

(a) the prohibition or regulation of the distribution to the public of advertising material or specified categories of advertising material,

- (b) the regulation of the movement, location, use and operation of mobile outlets so as to secure the prevention or removal of litter at or in the vicinity of such outlets,
 - (c) requiring occupiers of specified premises or classes of premises to take such measures as are deemed necessary by the local authority to prevent or limit the creation of litter at or in the vicinity of such premises and provide for its removal,
 - (d) requiring the promoters or organisers of events at which large numbers of persons are likely to be present to take measures to prevent or limit the creation of litter at the events and provide for its removal,
 - (e) requiring the owners or managers of specified businesses or classes of business to wash, clean and brush down the public area outside of premises in which their business is carried on or cause those things to be done,
 - (f) the regulation of the provision and use of supermarket trolleys, including the imposition of duties on the owners or managers of retail outlets in cases where supermarket trolleys from those outlets are abandoned.
- (3) A bye-law under *subsection (1)* shall not apply to—
- (a) the distribution of advertising material by means of a direct delivery to a place having an address, or
 - (b) the distribution of advertising material relating to a presidential election within the meaning of the Presidential Elections Act 1993, a general election or a bye-election, within the meaning, in each case, of the Electoral Act 1992, a local election within the meaning of the F10[Local Government Act 2001, a Limerick mayoral election within the meaning of Part 1 of Schedule 2 to the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024, a plebiscite within the meaning of Part 6 of the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024,] a referendum, within the meaning of the Referendum Act 1994, an election of representatives to the European Parliament under the European Parliament Elections Act 1997, or an election of members of Údarás na Gaeltachta under the Údarás na Gaeltachta Act 1979.
- (4) A bye-law under *subsection (1)* shall be made in accordance with, and shall be construed for the purposes of its enforcement as if it were made under, Part 19 of the Local Government Act 2001.
- (5) Bye-laws made under *subsection (1)* may contain such incidental, supplementary and consequential provisions as appear to the local authority making them to be necessary.]
- (2) A bye-law under *subsection (1)* shall not apply to—
- (a) the distribution of advertising material by means of a direct delivery to a place having an address, or
 - (b) the distribution of advertising material relating to a presidential election within the meaning of the Presidential Elections Act, 1993, a general election or a bye-election, within the meaning, in each case, of the Electoral Act, 1992, a local election within the meaning of the Local Government Act, 1994, a referendum, within the meaning of the Referendum Act, 1994, or an election of representatives to the Assembly of the European Communities.
- (3) A bye-law under *subsection (1)* shall be made in accordance with, and shall be construed for the purposes of its enforcement as if it were made under, Part VII of the Local Government Act, 1994.

Dog related offence.

22. — (1) Where faeces has been deposited by a dog in any place to which this subsection applies, the person in charge of the dog shall immediately remove the faeces and shall ensure that it is properly disposed of in a suitable sanitary manner.

(2) *Subsection (1)* applies to a place that is—

- (a) a public road,
- (b) land forming part of a retail shopping centre,
- (c) a school ground, sports ground, playing field or recreational or leisure area,
- (d) a beach,
- (e) the curtilage of a dwelling the occupier of which has not consented to the presence of the dog in the curtilage, or
- (f) such other place as may be prescribed.

(3) *Subsection (1)* does not apply in respect of—

- (a) a guide dog kept and used for the guidance of a blind person,
- (b) a working dog being used—
 - (i) for the herding of livestock, or
 - (ii) by a member of the Garda Síochána or the Customs and Excise service in connection with the official functions of the member, or
- (c) a dog in such other circumstances as may be prescribed.

(4) A person who contravenes *subsection (1)* shall be guilty of an offence.

PART V

ENFORCEMENT

Offences involving, and powers of, litter wardens, etc.

23. — (1) A person who obstructs or impedes a litter warden or a member of the Garda Síochána who is exercising functions under this Act shall be guilty of an offence.

(2) A litter warden or a member of the Garda Síochána who—

- (a) has reasonable grounds for believing that a person is committing or has committed an offence under this Act, may request the person to give his or her name and address, and may request that the information given be verified, and
- (b) is dissatisfied with the verification provided pursuant to a request under *paragraph (a)*, may request that the person accompany the warden or member to a local authority office or Garda station for the purpose of the verification.

(3) A person who—

- (a) fails to give his or her name and address when requested to do so under *subsection (2)(a)* or gives a name or address that is false or misleading, or
- (b) fails to comply with a request made by a warden or member under *subsection (2)(b)*,

shall be guilty of an offence.

(4) Where a litter warden makes a request of a person under this section, the litter warden shall, where the person requires proof of the litter warden's authority, produce to the person a certificate or other evidence of such authority.

(5) A litter warden who believes that the assistance of a member of the Garda Síochána is required in any particular instance to prevent the obstruction of the litter warden in exercising the litter warden's functions under this Act may request such member to assist to prevent the obstruction and the member shall comply with the request.

(6) A member of the Garda Síochána who is of the opinion that a person is committing or has committed an offence under this section may arrest the person without warrant.

F11[Operation of CCTV for certain purposes

23A. — (1) An authorised person may submit a proposal in accordance with *subsection (4)* for the installation and operation of closed circuit television in the functional area of, or any particular area within the functional area of, a local authority (in this section referred to as "a CCTV scheme"), for the purposes of—

- (a) deterring environmental pollution, and
- (b) facilitating the deterrence, prevention, detection and prosecution of offences under this Act.

(2) A proposal made under *subsection (1)* shall include—

- (a) details of the location, number and technical specification of the devices to be used in the CCTV scheme,
- (b) details of the geographical areas to be covered by the CCTV scheme,
- (c) a plan prepared for the purposes of this paragraph in accordance with *subsection (3)* in respect of the CCTV scheme, and
- (d) such other matters referred to in the code of practice approved under *section 23B* in respect of the operation of this section that relate to the installation and operation of the CCTV scheme.

(3) A plan prepared for the purposes of *subsection (2) (c)*—

- (a) shall contain details of the arrangements proposed in respect of—
 - (i) the monitoring, recording and disclosure of the images, sounds or documents, produced pursuant to the CCTV scheme, and
 - (ii) the preservation of recordings made and documents produced pursuant to that scheme,
- (b) shall include a data protection impact assessment in respect of the CCTV scheme carried out in accordance with section 84 of the Data Protection Act 2018, and
- (c) shall comply with—
 - (i) Part 5 of the Data Protection Act 2018, and
 - (ii) the code of practice approved under *section 23B* for the purposes of the operation of this section.

(4) A proposal under *subsection (1)* shall be submitted to the chief executive of the local authority in whose functional area, or part thereof, the proposed CCTV scheme is to operate and he or she shall decide whether or not to approve the proposal.

(5) Subject to *subsections (6) to (8)*, the chief executive—

(a) may approve, or approve, subject to such modifications, terms and conditions (if any) as he or she considers appropriate, a proposal submitted to him or her under this section, and

(b) where he or she approves a proposal, whether with or without modifications, terms and conditions, he or she shall specify the date on which the approval expires.

(6) In deciding whether or not to approve a proposal under *subsection (5)*, in considering what, if any, modifications, terms and conditions are appropriate and in specifying the date on which the approval is to expire, the chief executive shall consider the extent to which the proposal is proportionate to, and necessary for, the purposes referred to in *subsection (1)* and he or she shall not approve a proposal unless he or she is satisfied that the proposal is proportionate to, and necessary for, those purposes.

(7) Where the chief executive approves a proposal under *subsection (5)*—

(a) the approval shall—

(i) be in writing,

(ii) set out such modifications, terms and conditions (if any) as he or she considers appropriate, and

(iii) state the date on which the approval shall expire,

and

(b) the CCTV scheme to which the approval relates shall be operated in accordance with the approval and with the code of practice approved under *section 23B* for the purposes of the operation of this section.

(8) Subject to *subsections (11), (12) and (13)*, an approval given under *subsection (5)* shall expire not later than the date that is 5 years from the date on which the approval was given.

(9) The chief executive of a local authority in whose functional area, or part of whose functional area, an approved CCTV scheme is in operation—

(a) may, at any time, and

(b) shall, not later than 5 years from the date on which the approval in respect of the CCTV scheme was given under *subsection (5)* and thereafter at intervals of not more than 5 years from the date of the immediately preceding review,

cause a review of the operation of that scheme to be carried out by an authorised person.

(10) An authorised person carrying out a review pursuant to this section shall consider—

(a) whether the approved CCTV scheme is being operated—

(i) in accordance with the approval in respect of the scheme, and

(ii) in compliance with the code of practice approved under *section 23B* for the purposes of the operation of this section,

(b) the extent to which the operation of the scheme during the period in respect of which the review is being conducted has been, and remains, successful, proportionate and necessary having regard to the purposes referred to in *subsection (1)*, and

(c) such other matters that he or she considers appropriate having regard to the purposes referred to in *subsection (1)*.

(11) Without prejudice to *subsection (12)*, following a review carried out under *subsection (10)*, the chief executive shall decide whether to—

(a) renew the approval given in respect of the scheme, subject to such modifications, terms and conditions, if any, as he or she considers appropriate, or

(b) revoke the approval,

and *subsections (6) to (10)* shall, with any necessary modifications, apply in respect of the decision of the chief executive under this subsection and, where renewed, the approval as so renewed.

(12) The chief executive may at any time revoke an approval where the CCTV scheme to which the approval relates has been operated otherwise than—

(a) in accordance with the approval, or

(b) in accordance with the code of practice for the time being approved under *section 23B* for the purposes of the operation of this section.

(13) Where, in relation to an approved CCTV scheme, it is proposed that there are to be changes to the scheme, other than repairs or modifications that do not alter the extent of the coverage of the scheme or the capability of the devices used in the scheme an authorised person shall make a proposal under *subsection (1)* in respect of those changes and this section shall apply, with any necessary modifications, in respect of that proposal and where an approval is given in respect of that new proposal, the existing approval shall be revoked.

(14) Where an approval—

(a) expires and is not renewed, or

(b) is revoked by the chief executive under this section, the local authority shall, not later than one month after the date on which the approval expired or is revoked, as the case may be, terminate the operation of the CCTV scheme concerned.

(15) Notice of the approval, review or revocation of a proposal under this section shall be published on the website of the local authority concerned.

(16) In this section, "chief executive" has the same meaning as it has in section 2 of the Local Government Act 2001.]

F12[Code of practice for purposes of *section 23A*

23B. — (1) The Local Government Management Agency shall, as soon as practicable after the coming into operation of section 33 of the Act of 2022, prepare and submit to the Minister for his or her approval a draft code of practice for the purposes of setting standards for the operation of *section 23A*.

(2) A draft code of practice referred to in *subsection (1)* shall include provisions in relation to the following:

(a) the procedures and standards to be followed in the operation of *section 23A* including in the installation of devices to be used in a CCTV scheme;

(b) confidentiality, security, storage, access to, retention, deletion and any other processing of, data gathered in accordance with *section 23A*;

(c) the circumstances in which data gathered under *section 23A* is to be disposed of or destroyed;

(d) the rights of data subjects in so far as they relate to the operation of *section 23A*;

(e) such other matters, if any, related to the operation of *section 23A* that the Local Government Management Agency considers appropriate,

and the code of practice may contain different provisions in relation to different types of devices or systems, in relation to different categories of persons and in relation to the different circumstances in which such devices or systems are operated.

(3) In preparing a draft code of practice under this section, the Local Government Management Agency—

(a) shall carry out or cause to be carried out on its behalf an assessment of the likely impact on data subjects of the types of processing of personal data contemplated by *section 23A*,

(b) shall ensure that the assessment referred to in *paragraph (a)* contains the following:

(i) a general description of the type of processing operations to which the assessment relates;

(ii) an assessment of the potential risks to the rights and freedoms of data subjects as a result of that processing;

(iii) a description of any safeguards, security measures or mechanisms proposed to be implemented by the local authority to mitigate any risk referred to in *subparagraph (ii)* and to ensure the protection of personal data in relation to the types of processing contemplated by *section 23B*,

and

(c) shall ensure that the draft code takes account of the assessment referred to in *paragraph (a)*.

(4) Before submitting a draft code of practice to the Minister under this section, the Local Government Management Agency—

(a) shall consult with—

(i) the Minister,

(ii) the Minister for Housing, Local Government and Heritage,

(iii) the Minister for Justice, and

(iv) the Data Protection Commission,

(b) shall provide the assessment referred to in *subsection (3)* to the persons referred to in *paragraph (a)* before consulting with those persons, and

(c) may consult with any other person or body appearing to the Local Government Management Agency to have an interest in the operation of *section 23A* and such other person that the Minister may direct.

(5) The Minister may approve, with or without modifications, a code of practice submitted to him or her under this section.

(6) The Local Government Management Agency shall ensure that a code of practice approved by the Minister under this section is reviewed by it on a regular basis with the first review to be not later than 5 years from the date on which the code is first approved by the Minister, and, in the case of each subsequent review, not later than 5 years from the date of the previous review.

(7) The Local Government Management Agency shall consult with the persons referred to in *subsection (4)* when conducting a review under *subsection (6)*.

(8) The Minister shall be informed in writing of the outcome of a review under *subsection (6)*.

(9) The Local Government Management Agency, following a review under *subsection (6)* or at any other time that it considers appropriate, may submit a further draft code of practice to the Minister to amend, revoke or replace, an existing code of practice, or to create a new code of practice or may request the Minister to renew the code which was the subject of the review.

(10) Subject to *subsection (11)*, *subsections (2) to (9)* shall apply in relation to a draft code of practice submitted to the Minister under *subsection (9)* or to a request to renew an existing code as they apply to a draft code of practice submitted to the Minister under *subsection (1)*.

(11) *Subsection (10)* shall not apply where the amendments being made to a code of practice are minor or technical only.

(12) A code of practice renewed or approved, as the case may be, by the Minister under this section shall be laid before each House of the Oireachtas by the Local Government Management Agency and shall be published on a website maintained by or on behalf of the Minister or the Government.]

F13[Admissibility of evidence obtained under *section 23A*

23C. — (1) Evidence obtained under *section 23A*—

(a) may be admitted as evidence in criminal proceedings, and

(b) shall not require the device from which it was obtained be exhibited in court proceedings.

(2) Nothing in *section 23A* is to be construed as prejudicing the admissibility of information or material obtained otherwise than as a result of operating a recording device under the provisions of this Act.

(3) Information obtained as a result of the operation of an approved CCTV scheme may be admitted as evidence in criminal proceedings notwithstanding any error or omission on the face of the approval given in respect of the scheme concerned, if the court, having regard in particular to the matters specified in *subsection (4)*, decides that—

(a) the error or omission concerned was inadvertent, and

(b) the information ought to be admitted in the interests of justice.

(4) The matters referred to in *subsection (3)* are—

(a) whether the error or omission concerned was serious or merely technical in nature,

(b) the nature of any right infringed by the manner in which the information was obtained,

(c) whether there were circumstances of urgency relating to the giving of the approval, or

(d) the probative value of the information concerned.

(5) A failure to observe any provision of *section 23A* or of any code of practice approved under *section 23B* on the part of any local authority or authorised person, shall not (without prejudice to the power of the court to exclude evidence) of itself affect the admissibility of any evidence thereby obtained.

(6) It shall be presumed, unless the contrary is shown, that—

- (a) any device used in an approved CCTV scheme for the purposes of this Act is a device capable of producing accurate information or material without the necessity of proving that that device was in good working order,
- (b) the information produced by the device, and any copies thereof, is accurate, and
- (c) the device was operated in accordance with the relevant code of practice approved under *section 23B* in respect of its operation.

(7) A person who—

- (a) falsifies, conceals, destroys or otherwise disposes of, information gathered by a recording device while it was or is being operated under this Act,
- (b) permits the falsification, concealment, destruction or disposal, of such information, or
- (c) knowingly causes damage to or destroys a recording device,

shall be guilty of an offence.

(8) A person shall not be guilty of an offence under *subsection (7)* where he or she—

- (a) destroys or disposes, or
- (b) permits the destruction or disposal,

of information gathered by a recording device in accordance with a code of practice made under *section 23B* or otherwise in accordance with law.]

F14[Punishment for offences.

24. — (1) A person guilty of an offence under this Act shall be liable—

- (a) on conviction on indictment, to a fine not exceeding €130,000, or
- (b) on summary conviction, to a fine not exceeding €3,000.

(2) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence he or she shall be liable—

- (a) on conviction on indictment, to a fine not exceeding €10,000, or
- (b) on summary conviction, to a fine not exceeding €600.]

Offence related provisions.

25. — (1) An offence under this Act may be prosecuted by the local authority in whose functional area the offence was committed.

(2) Where a person is convicted of an offence under *section 3(4)*, the court may, in addition to any other penalty that may be imposed for the offence, order that the convicted person pay to the local authority or person who suffered loss in respect of the litter receptacle involved in the commission of the offence, the costs incurred by the local authority or person for the repair or replacement of the receptacle.

(3) Where an offence under this Act which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person who, when the offence was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and be liable to be

proceeded against and punished as if guilty of the offence committed by the body corporate.

(4) Where a person is convicted of an offence under this Act in proceedings brought by a local authority, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the local authority the costs and expenses measured by the court, incurred by the local authority in relation to the investigation, detection and prosecution of the offence, and the costs and expenses incurred by the local authority in the collection and disposal of any litter to which the prosecution relates.

(5) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act in proceedings brought by a local authority, it shall provide by order for the payment of the amount of the fine to the local authority and such payment may be enforced by the local authority as if it were due to it pursuant to a decree or order made by the court in civil proceedings.

Evidence in relation to certain offences.

26. — Where the contents of litter that has been deposited in contravention of this Act or of municipal waste that has been placed in contravention of *section 3(3)* gives rise to a reasonable suspicion as to the identity of the person from whom the litter or waste emanated, the contents shall, in a prosecution of the person for an offence under this Act, constitute evidence, in the absence of evidence to the contrary, that the litter or waste emanated from the person before the deposit or placement and that the person made the contravening deposit or placement.

Vehicle related offences.

27. — (1) Where a mechanically propelled vehicle, other than a large public service vehicle within the meaning of the Road Traffic Act, 1961, is used in the commission of an offence under this Act—

- (a) the registered owner of the vehicle,
- (b) if the vehicle is the subject of a hire-drive agreement at the time of the commission of the offence, the person who hired the vehicle, and
- (c) if the person using the vehicle at the time of the commission of the offence is not the registered owner or the person who hired the vehicle, the person using the vehicle at that time,

or each of them severally shall be guilty of an offence, whether or not any other of them is prosecuted and convicted for the offence.

(2) If the person charged with an offence under *subsection (1)* is the registered owner of the vehicle concerned, it shall be a defence for the person to show that, at the time of the commission of the offence, the vehicle was being used by another person and that—

- (a) such use was unauthorised, or
- (b) the vehicle was at that time the subject of a hire-drive agreement.

(3) If the person charged with an offence under *subsection (1)* is the person to whom the vehicle concerned stood hired under a hire-drive agreement at the time of the commission of the offence, it shall be a defence for the person to show that, at the time, the vehicle was being used by another person and that such use was unauthorised.

Notice of certain offences may be given by litter wardens, etc.

28. — (1) If a litter warden or a member of the Garda Síochána has reasonable grounds for believing that a person is committing or has committed a prescribed offence under this Act, or a dog warden, within the meaning of the Control of Dogs Act, 1986, or a member of the Garda Síochána has reasonable grounds for believing

that a person is committing or has committed an offence under *section 22*, the warden or member may give to the person a notice in prescribed form stating—

- (a) that the person is alleged to have committed the offence,
- (b) that the person may during the period of 21 days beginning on the date of the notice, make to the local authority specified in the notice a payment of F16[€150] accompanied by the notice, and
- (c) that a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a notice is given under *subsection (1)* —

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the local authority specified in the notice the payment specified in the notice, accompanied by the notice,
- (b) the local authority shall receive the payment and issue a receipt for it and may retain the money so paid for disposal in accordance with this Act, and no payment so received shall in any circumstances be recoverable by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence referred to in *subsection (1)*, the onus of showing that a payment pursuant to a notice under this section has been made shall lie on the accused.

(4) F17[...]

PART VI

GENERAL

Minister may issue directions and guidelines, etc.

29. — (1) The Minister may issue policy directions to any local authority in respect of the application and carrying out of the provisions of this Act where the Minister is of the opinion that the local authority should follow such directions in order to effectively exercise its functions under this Act.

(2) The Minister shall prepare and issue to local authorities guidelines and criteria in relation to the prevention and control of litter, including guidelines and criteria on appropriate objectives to be specified by local authorities under *section 11 (2)*.

(3) The Minister may revoke or amend any direction, guideline or criteria issued under this section.

(4) The Minister shall cause a notice of every policy direction issued to a local authority under *subsection (1)* to be published at least once in a newspaper circulating in the functional area of the local authority.

(5) A local authority shall—

- (a) in performing its functions under this Act, have regard to any policy direction issued to it under *subsection (1)*, and

(b) in the making of its litter management plan under *section 10* and in performing its functions under this Act, have regard to the guidelines and criteria issued to it under *subsection (2)*.

Extension of purposes for which regulations under Waste Management Act, 1996, may be made.

30. — The purposes for which regulations under *sections 28* and *29* of the *Waste Management Act, 1996*, may be made shall include the purposes of preventing, minimising or controlling litter under this Act.

Regulations.

31. — (1) The Minister may make regulations prescribing any matter or thing referred to in this Act as prescribed or as may be prescribed and for the purposes of enabling any provision of this Act to have full effect.

(2) Any such regulation may be made to apply to local authorities generally, to any class of local authority or to a particular local authority.

(3) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Service of notices.

32. — (1) Any notice required to be served or given by or under this Act shall be addressed to the person concerned and served or given in one of the following ways—

- (a) by addressing it to the person by name and delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides,
- (c) by sending it by post in a prepaid registered letter addressed to the person at the address at which the person ordinarily resides,
- (d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to the person to, that address, or
- (e) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, the person in respect of any premises, by delivering it to a person over the age of 16 years of age resident in or employed on the premises, or by affixing it in a conspicuous position on or near the premises.

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under this Act may be addressed to “the occupier”, “the owner” or “person in charge”, as the case may be.

(3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) A person shall not at any time during the period of 3 months after a notice is affixed under *subsection (1)(e)* remove, damage or deface the notice without lawful authority.

(5) A person who contravenes *subsection (4)* shall be guilty of an offence.

Expenses. **33.** — (1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) Expenses under this Act of a local authority being the council of a county shall be charged on the county, exclusive of any borough or urban district therein.

Disposition of moneys received by local authorities. **34.** — Moneys received by a local authority under this Act shall be lodged, in the case of a local authority that is—

(a) the corporation of a county or other borough or the council of an urban district, to the credit of the municipal fund of the county borough, borough or urban district, or

(b) the council of a county, to the credit of the county fund,

and may be expended for the same purposes as other moneys credited to that fund.

PART VII

RELATED AND CONSEQUENTIAL AMENDMENTS AND COMMENCEMENT

Amendment and repeal of certain enactments. **35.** — (1) The Local Government Act, 1994, is hereby amended—

(a) in section 37(3) by the deletion of paragraphs (b) and (c),

(b) by the substitution of “ £1,500 ” for “ £1,000 ” —

(i) in paragraph (i) of section 37(4),

(ii) in section 40(1), and

(iii) in paragraph (c) of section 40(4), and

(c) in section 40, by the substitution of the following for subsection (10):

“In this section 'authorised person' means a person authorised in writing by a local authority for the purpose of this section or, except in the case of subsection (5), a member of the Garda Síochána.”.

(2) Paragraph (a) of section 17(2) of the Control of Dogs Act 1986, is hereby repealed.

(3) The Litter Act, 1982, is hereby repealed.

Commencement. **36.** — This Act shall come into operation on such day as may be fixed by order of the Minister, and different days may be so fixed for different provisions and for different purposes.



Number 12 of 1997

LITTER POLLUTION ACT 1997

REVISED

Updated to 31 March 2024

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Litter Pollution Acts 1997 to 2009: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral (Amendment) (No. 2) Act 2009* (9/2009), s. 10(4)). The Acts in this group are:

- *Litter Pollution Act 1997* (12/1997)
- *Waste Management (Amendment) Act 2001* (36/2001), s. 14
- *Protection of the Environment Act 2003* (27/2003), Part 4
- *Electoral (Amendment) (No. 2) Act 2009* (9/2009), s. 9

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.