

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1A N.I.]

#### FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED

**F1** Sch. 1A inserted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), [ss. 21\(3\)](#), 78; S.R. 2012/13, Sch. 2

#### *Offence of unauthorised distribution*

**1.—**(1) A person commits an offence if he distributes any free printed matter without the consent of a district council on any land which is designated by the council under this Schedule, where the person knows that the land is so designated.

(2) A person commits an offence if he causes another person to distribute any free printed matter without the consent of a district council on any land designated by the council under this Schedule.

(3) A person is not guilty of an offence under sub-paragraph (2) if he took reasonable steps to ensure that the distribution did not occur on any land designated under this Schedule.

(4) Nothing in this paragraph applies to the distribution of printed matter—

(a) by or on behalf of a charity within the meaning of the Charities Act (Northern Ireland) 2008, where the printed matter relates to or is intended for the benefit of the charity;

(b) where the distribution is for political purposes or for the purposes of a religion or belief.

(5) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) For the purposes of this Schedule—

(a) to “distribute” printed matter means to give it out to, or offer or make it available to, members of the public and includes placing it on or affixing it to vehicles, but does not include putting it inside a building or letter-box;

(b) printed matter is “free” if it is distributed without charge to the persons to whom it is distributed.

(7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Road Traffic (Northern Ireland) Order 1981).

#### *Designation*

**2.—**(1) A district council may by order in accordance with this paragraph designate land in its district for the purposes of this Schedule.

(2) The land designated must consist of—

(a) relevant land of the district council;

(b) all or part of any relevant road for which the council is responsible; or

- (c) both.
- (3) A district council may only designate land where it is satisfied that the land is being defaced by the discarding of free printed matter which has been distributed there.
- (4) Where a district council proposes to make an order under sub-paragraph (1) in respect of any land, it shall—
  - (a) publish a notice of its proposal in at least one newspaper circulating in an area of the district which includes the land; and
  - (b) post such a notice on the land.
- (5) A notice under sub-paragraph (4) must specify—
  - (a) the land proposed to be designated;
  - (b) the date on which it is proposed that the order is to come into force (which shall not be earlier than the end of a period of 28 days beginning with the day on which the notice is given);
  - (c) the fact that objections may be made to the proposal, how they may be made and the period within which they may be made (being a period of at least 14 days beginning with the day on which the notice is given).
- (6) Where after giving notice under sub-paragraph (4) and taking into account any objections duly made pursuant to sub-paragraph (5)(c) a district council decides to make an order under sub-paragraph (1) in respect of any or all of the land in respect of which the notice was given, the council shall—
  - (a) publish a notice of its decision in at least one newspaper circulating in an area which includes the land; and
  - (b) post such a notice on the land.
- (7) A notice under sub-paragraph (6) must specify the date on which the order is to come into force, being a date not earlier than—
  - (a) the end of the period of 14 days beginning with the day on which the notice is given; and
  - (b) the date referred to in sub-paragraph (5)(b).
- (8) A district council may at any time revoke an order under sub-paragraph (1) in respect of any land to which the order relates.
- (9) A district council must—
  - (a) publish a notice of any revocation under sub-paragraph (8) in at least one newspaper circulating in an area which includes the land in question; and
  - (b) post such a notice on the land.

#### *Consent and conditions*

- 3.—**(1) A district council may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the council under this Schedule.
- (2) Consent under this paragraph may be given without limitation or may be limited—
    - (a) by reference to the material to be distributed;
    - (b) by reference to a particular period, or particular times or dates;
    - (c) by reference to any part of the designated land;
    - (d) to a particular distribution.

(3) A district council need not give consent under this paragraph to any applicant where it considers that the proposed distribution would in all the circumstances be likely to lead to the defacement of the designated land.

(4) Consent need not be given to any applicant if within the period of 5 years ending on the date of his application—

- (a) he has been convicted of an offence under paragraph 1; or
- (b) he has paid a fixed penalty under paragraph 7.

(5) Consent may be given under this paragraph subject to such conditions as the council considers necessary or desirable for—

- (a) protecting the designated land from defacement; or
- (b) the effective operation and enforcement of this Schedule.

(6) The conditions which may be imposed by a district council under this paragraph include conditions requiring any person distributing printed matter pursuant to consent given under this paragraph to produce on demand written evidence of the consent to an authorised officer of the council.

(7) Consent given by a district council under this paragraph may at any time be revoked (entirely or to any extent) by notice to the person to whom it was given, where—

- (a) he has failed to comply with any condition subject to which it was given; or
- (b) he is convicted of an offence under paragraph 1 or pays a fixed penalty under paragraph 7.

(8) Any condition imposed under this paragraph in relation to any consent may be varied or revoked by notice given to the person to whom the consent was given.

#### *Fees*

4.—(1) A district council may require the payment of a fee before giving consent under paragraph 3.

(2) The amount of a fee under this paragraph is to be such as the district council may determine, but shall not be more than, when taken together with all other fees charged by the council under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.

#### *Appeals*

5.—(1) Any person aggrieved by a decision of a district council under paragraph 3—

- (a) to refuse consent,
- (b) to impose any limitation or condition subject to which consent is given,
- (c) to revoke consent (or to revoke it to any extent),

may appeal against the decision to a court of summary jurisdiction.

(2) A court may on an appeal under this paragraph—

- (a) uphold any refusal of consent or require the council to grant consent (without limitation or condition or subject to any limitation or condition);
- (b) require the council to revoke or vary any condition;
- (c) uphold or quash revocation of consent (or uphold or quash revocation to any extent).

### *Seizure of material*

6.—(1) Where it appears to an authorised officer of a district council that a person distributing any printed matter is committing an offence under paragraph 1, he may seize all or any of it.

(2) Any person claiming to own any printed matter seized under this paragraph may apply to a court of summary jurisdiction for an order that the printed matter be released to him.

(3) On an application under sub-paragraph (2), if the court of summary jurisdiction considers that the applicant does own the printed matter, the court shall order the district council to release it to him, except to the extent that the court considers that the council needs to retain it for the purposes of proceedings relating to an offence under paragraph 1.

(4) Any printed matter seized under this paragraph (and not released under sub-paragraph (3)) shall be returned to the person from whom it is seized—

- (a) at the conclusion of the proceedings for the offence (unless the court orders otherwise);
- (b) at the end of the period in which proceedings for the offence may be instituted, if no such proceedings have been instituted in that period (or have been instituted but discontinued).

(5) Where it is not possible to return any printed matter under sub-paragraph (4) because the name and address of the person from whom it was seized are not known, a district council may dispose of it or destroy it.

### *Fixed penalty notices*

7.—(1) This paragraph applies where on any occasion it appears to an authorised officer of a district council that a person has committed an offence under paragraph 1 on any land designated by the council under this Schedule.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the council.

(3) Paragraphs (2) to (5) of Article 6 apply in relation to notices given under this paragraph as they apply to notices under that Article.

(4) The amount of the fixed penalty payable to a district council under this paragraph—

- (a) is the amount specified by the council in relation to its district; or
- (b) if no amount is so specified, is £75.

(5) The district council to which a fixed penalty is payable under this paragraph may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the council.

(6) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the clerk of the council, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(7) If an authorised officer of a district council proposes to give a person a notice under this paragraph, the officer may require the person to give him his name and address.

(8) A person commits an offence if—

- (a) he fails to give his name and address when required to do so under sub-paragraph (7); or
- (b) he gives a false or inaccurate name or address in response to a requirement under that sub-paragraph.

(9) A person guilty of an offence under sub-paragraph (8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this paragraph “ clerk of the council ”, in relation to a district council, means the clerk appointed in accordance with section 41 of the Local Government Act (Northern Ireland) 1972.

*Supplementary*

- 8** In this Schedule “ authorised officer ”, in relation to a district council, means—
- (a) an employee of the district council who is authorised in writing by the council for the purposes of giving notices under paragraph 7;
  - (b) any person who, in pursuance of arrangements made with the council, has the function of giving such notices and is authorised in writing by the council to perform that function; and
  - (c) any employee of such a person who is authorised in writing by the council for the purpose of giving such notices.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Litter (Northern Ireland) Order 1994, SCHEDULE 1A.