



AN BILLE UM THRUAILLIÚ Ó BHRUSCAR, 1996
LITTER POLLUTION BILL, 1996

Mar a leasaíodh sa Roghchoiste um Airgeadas agus Gnóthaí Ginearálta
As amended in the Select Committee on Finance and General Affairs

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Electoral Act, 1992	1992, No. 23
Litter Act, 1982	1982, No. 11
Local Government Act, 1994	1994, No. 8
Local Government (Planning and Development) Act, 1963	1963, No. 28
Presidential Elections Act, 1993	1993, No. 28
Referendum Act, 1994	1994, No. 12
Roads Act, 1993	1993, No. 14
Road Traffic Act, 1961	1961, No. 24
Waste Management Act, 1996	1996, No. 10



AN BILLE UM THRUAILLIÚ Ó BHRUSCAR, 1996
LITTER POLLUTION BILL, 1996

BILL

entitled

AN ACT TO PROVIDE FOR THE PREVENTION AND CON- 5
TROL OF LITTER POLLUTION, THE PREVENTION OF
THE DEFACEMENT OF CERTAIN PLACES AND MAT-
TERS RELATING THERETO.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I 10

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—

“deposit”, in relation to a substance or object that can constitute
litter in respect of any place, means to throw, drop, dump, abandon 15
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 Road Acts, 1993;

“functions” includes powers and duties and a reference to the per-
formance of a function includes, with respect to powers and duties, 20
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— 25

- (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; 30

“litter” means a substance or object, whether or not intended as
waste (other than waste within the meaning of the Waste Manage-
ment 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, 35

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;

5 “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—

10 (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,

15 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;

20 “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;

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

25 “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;

30 “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—

35 (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

40 (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.

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(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

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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.

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(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.

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(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 all reasonable measures to prevent the creation of litter from the vehicle on a public road or in a public place.

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(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.

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

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,

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(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

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(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.

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. Duty of occupiers, etc., regarding littering.

5 (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.

10 (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.

15 (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

20 (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.

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

PART III

LOCAL AUTHORITY FUNCTIONS AND DUTIES GENERALLY

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

30 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
35 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,

40 (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, 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. 5

(4) A local authority may empty and clean litter receptacles that are provided by any other person. 10

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. 15

(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 20
- (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. 25

(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— 30

- (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. 35

(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— 40

- (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.

5 **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—

Litter management plan required.

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

15 (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.

20 **11.**—(1) A litter management plan shall—

Requirements of litter management plan.

25 (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

30 (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,

35 (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,

40 (iv) the steps to be taken by the local authority to enforce the provisions of this Act in its functional area, and

 (v) any incidental and ancillary matters.

45 (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. 5

(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. 10

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 15

(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. 20

(2) A notice of proposal under *subsection (1)(a)* shall indicate— 25

(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 30

(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. 35

(3) After considering the submissions referred to in *subsection (2)(c)*, 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. 40

(4) 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. 45

(5) An outline referred to in *subsection (4)* 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.

5 13.—(1) The making, review, amendment or replacement of a litter management plan under *section 10* or *12* shall be a reserved function.

Duties are a reserved function of local authority.

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

10 (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.

15 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.

Immunity of local authorities, etc., from liability.

PART IV

LITTERING-RELATED MATTERS

25 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—

Mobile outlets.

(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,

30 (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

35 (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.

40 (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.

45 (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 authority 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 toward 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—

5 (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)*,

10 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

15 (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
20 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—

25 (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,

30 (d) a cinema, theatre, concert hall or leisure centre, an amusement arcade or an area for other indoor or outdoor sport or recreation,

35 (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,

40 (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—

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“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.

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“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 authority 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.

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(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.

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(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
5 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—

10 (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)*,

15 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
20 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.
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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
30 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

35 (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,

40 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
45 is a person whose promotion of the event or series of events, as the case may be, necessitated such steps or operations.

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

19.—(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

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(b) carry out or cause to be carried out any defacement thereof by writing or other marks,

unless 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.

(2) A person shall not place advertising material on a mechanically propelled vehicle in a public place without the prior consent of the person who owns, or is in charge of, the vehicle.

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(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—

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(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,

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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)*—

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(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.

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(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)*.

35

(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.

40

(7) A prosecution shall not be brought in a case in which an offence under this section is alleged to have been committed in relation to an advertisement if—

45

(a) the advertisement is exempted development within the

meaning of the Local Government (Planning and Development) Act, 1963, or is a notice displayed or erected in pursuance of a requirement by or under any enactment, or

5 (b) the advertisement—

- (i) advertises a public meeting, other than an auction, or
- (ii) relates 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,

10
15 unless the advertisement has been in position for 7 days or longer after the day specified in the advertisement for the meeting or the latest day upon which the poll was taken for the election, bye-election or referendum concerned.

(8) In this section and in section 20—

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
25 (Planning and Development) Act, 1963.

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
30 notice on the occupier requiring the occupier—
35

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

- (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
- 40 (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,
- 45 (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.

5

(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—

10

(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,

15

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—

20

(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

25

(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—

30

(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)*,

35

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.

40

(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.

45

21.—(1) A local authority may, where it deems it necessary for the purpose of preventing the creation of litter, by bye-law prohibit or regulate the distribution to the public of advertising material or specified categories of advertising material. Regulation of distribution of advertising material.

5 (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

10 (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.

20 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. Dog-related offence.

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

25 (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,

30 (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—

35 (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

40 (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.

5

(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, 10
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. 15

(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)*, 20

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. 25

(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. 30

(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. 35

Punishment for
offences.

24.—(1) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding £1,500.

(2) If, after the conviction of a person for the contravention of a provision of this Act, the contravention is continued, the person shall be guilty of a further offence and be liable on summary conviction to a fine not exceeding £100 for each day during which the contravention continues. 40

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)*, 45

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.

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.

Evidence in relation to certain 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—

Vehicle-related offences.

- (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 5

(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. 10

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— 15 20

(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 £25 accompanied by the notice, and 25

(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. 30

(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, 35

(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 40

(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. 45

(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) Where the Minister is satisfied that the monetary amount for
5 the time being standing specified—

(a) in *paragraph (b)* of *subsection (1)*, or

(b) in respect of *paragraph (b)* of *subsection (1)*, by virtue of a regulation made under this subsection,

should, having regard to changes in the value of money generally in
10 the State since the monetary amount was so specified, be varied, the Minister may by regulation specify an amount that the Minister considers is appropriate, and in such case *paragraph (b)* of *subsection (1)* shall, in relation to any offence referred to in *subsection (1)* committed while the regulation is in effect, have effect as if the amount
15 specified in the regulation was set out in *paragraph (b)* of that subsection.

PART VI

GENERAL

29.—(1) The Minister may issue policy directions to any local auth-
20 ority 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. Minister may issue directions and guidelines, etc.

(2) The Minister shall prepare and issue to local authorities guide-
25 lines 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.

30 (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—

35 (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
40 *subsection (2)*.

30.—(1) The Minister may make regulations prescribing any mat-
ter or thing referred to in this Act as prescribed or as may be pre-
scribed and for the purposes of enabling any provision of this Act to
have full effect. Regulations.

(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.

31.—(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.

32.—(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.

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

 (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,

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

PART VII

RELATED AND CONSEQUENTIAL AMENDMENTS AND COMMENCEMENT

15 **34.**—(1) The Local Government Act, 1994, is hereby amended— Amendment and repeal of certain enactments.
 (a) in section 37(3) by the deletion of paragraphs (b) and (c),
 and

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

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

 (ii) in section 40(1), and

20 (iii) in paragraph (c) of section 40(4).

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

25 “In this section ‘authorised person’ means a person authorised in writing by a local authority for the purpose of this section and includes, 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.

30 **35.**—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. Commencement.

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

31.—Wherever required by a local authority under this Act shall be subject 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 in the county of the municipal fund of the county borough, township or urban district;

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

32.—And may be demanded for the same purposes as that fund may be used for in that fund.

PART VII

33.—Wherever required by a local authority that is

(a) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

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

(c) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(d) the council of a county, to the council of the county fund.

(e) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(f) the council of a county, to the council of the county fund.

(g) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(h) the council of a county, to the council of the county fund.

(i) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(j) the council of a county, to the council of the county fund.

(k) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(l) the council of a county, to the council of the county fund.

(m) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(n) the council of a county, to the council of the county fund.

(o) the corporation of a county or other borough or the council of an urban district in the county of the municipal fund of the county borough, township or urban district;

(p) the council of a county, to the council of the county fund.

BILL

BILL



AN BILLE UM THRUAILLIÚ Ó
BHRUSCAR, 1996

BILLE

*(mar a leasaíodh sa Roghchoiste um Airgeadas
agus Gnóthaí Ginearálta)*

dá ngairtear

Acht do dhéanamh socrú chun truailliú ó bhruscar a chosc agus a rialú, chun aghlot áiteanna áirithe a chosc agus i dtaobh nithe a bhaineann leis an gcéanna.

An tAire Comhshaoil a thíolaic

*Ordaíodh ag an Roghchoiste a chlóbhualadh,
27 Feabhra, 1997*

LITTER POLLUTION BILL, 1996

BILL

*(as amended in the Select Committee on Finance
and General Affairs)*

entitled

An Act to provide for the prevention and control of litter pollution, the prevention of the defacement of certain places and matters relating thereto.

Presented by the Minister for the Environment

*Ordered by the Select Committee to be printed,
27th February, 1997*

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
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(Tel: 01 - 6613111 — ext. 4040/4045; Fax: 01 - 4752760)
or through any bookseller.

£3.00

ISBN 0-7076-4080-6



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