

**DRAFT REGULATORY IMPACT
ASSESSMENT ON EXTENSION OF STREET
LITTER CONTROL NOTICES**

Department of the Environment

1. Title of Proposal

The amendment of Articles 13 and 14 of the Litter (Northern Ireland) Order 1994 (1994 No. 1896 (NI.10)) (the 1994 Order) and the Street Litter Control Notices Order (Northern Ireland) 1995 (S.R. 1995 No. 42).

2. Purpose and Intended Effect

2.1 Objective

The objective of this proposal is to reduce litter on the streets and therefore help in the creation and maintenance of clean, safe and green neighbourhoods and public spaces.

2.2 Background

Articles 13 and 14 of the 1994 Order give district councils the power to issue Street Litter Control Notices on premises that have a frontage on a street, and outside which litter is causing defacement of the land.

Article 13(1) states that ‘A district council may, with a view to the prevention of accumulations of litter in and around any street or open land adjacent to any street, issue Notices (“Street Litter Control Notices”) imposing requirements on occupiers of premises in relation to such litter, in accordance with this article and Article 14”.

Article 13(2) states that the Notices must be served on the occupier of the premises, or, if the premises are unoccupied, on the owner of the premises.

A number of criteria must be satisfied before a Notice can be issued:

(1) The premises must have a frontage on a street (Article 13(2)).

(2) The council must be satisfied that **at least one of the following** criteria applies (Article 13(2)):

(i) There is **recurrent defacement** by litter of any land,

being part of the street or open land adjacent to the street, which is in the vicinity of the premises, or

(ii) The condition of any part of the premises which is open land in the vicinity of the frontage is, and if no notice is served is likely to continue to be, **detrimental to the amenities of the locality** by reason of the presence of litter, or

(iii) There is produced, as a result of the activities carried on the premises, quantities of litter of such nature and in such amounts as are **likely to cause the defacement** of any part of the street, or of open land adjacent to the street, which is in the vicinity of the premises.

(3) The Notices can only be issued in respect of certain types of premises. Article 14(1) provides a power for the Department to prescribe, by Order, 'the descriptions of commercial or retail premises in respect of which a Street Litter Control Notice may be issued'. This power has been exercised in the Street Litter Control Notices Order (Northern Ireland) 1995 (SR 1995 No. 42). There is no restriction in the 1994 Order (as amended) on the type of litter for which the provisions may be used, but the current list of premises is directed at dealing with food and drink packaging and other litter caused by eating 'on the go' as well as litter from bookmakers premises, cash points and lottery tickets dropped outside shops.

Land to which the Notice may apply

Article 13(3) states that, in addition to identifying the premises and grounds under which it is issued, the Notice must 'specify an area of open land which adjoins or is in the vicinity of the frontage of the premises on the street'. This includes a vehicle or stall or other moveable structure which is used for one or more commercial or retail activities. Under Article 14(1), the Department has the power to prescribe descriptions of land, and the maximum area that can be included. Again, this is provided in the Street Litter Control Notices Order (Northern Ireland) 1995 and can be:

- Land in the open air which is part of the premises;

- Part of a street, other than the carriageway when it is open to vehicles;
- Relevant land of a district council; or,
- Land under the direct control of any other district council.

It also states that the land specified must be within 100 metres of the premises, except in the case of automated teller machines, in which case it must be within 10 metres.

Requirements of the Notice

The requirements that may be imposed by a Notice are set out in Article 14(4). They must be 'reasonable' and relate to the clearance of litter from the specified area. In particular, they may require the provision or emptying of bins or for litter to be cleared up at specified times or intervals. The "Guidance on Litter" published by the Department on these provision states, at paragraph 6.11 'In order to be 'reasonable' district councils will need to consider the health and safety implications and cost effectiveness of any requirements they are proposing to make, as well as their own role in carrying out street cleansing'.

Sub-paragraph (6) sets out the mechanism for making representations on a proposed Notice. The district council is required to inform the person on whom the Notice is to be served and allow him/her a period of 21 days in which to make any representations. The district council must take any such representations into account in deciding on the content of the Notice and its issue. Sub-paragraph (7) allows a person on whom a Notice is served to appeal to a court of summary jurisdiction against the Notice.

Scope of the existing and proposed measures

The legislative framework therefore sets out very specific circumstances in which Street Litter Control Notices may be used. They can only be served on a premise that has a frontage on a street and outside which litter is creating a serious impact on the condition of that area, so as to cause defacement or to be detrimental to the amenity of the locality. The guidance issued by the Department on litter states that 'district councils should work in

partnership with others to resolve the problem of street litter and seek to remedy it, where possible, through joint working and good management practice', therefore Street Litter Control Notices are suitable for use only where such attempts at joint-working have been ineffective. In specifying 'reasonable requirements' in the Notice district councils must consider their own duties to clear litter from 'relevant land', they must also take into consideration any issues of health and safety or security that may be raised by the occupier (or owner).

If district councils were able to issue Street Litter Control Notices in respect of offices, pubs, bars, cafes, restaurants and other eating and drinking venues, not currently covered by the provisions, it would give them the power to place greater responsibility onto the occupiers or owners of those premises to clean-up the smoking-related litter in the area immediately around them, and/or install appropriate disposal facilities, where there is a significant problem with this form of littering and it is causing defacement of the area. This proposal is consistent with changes to be introduced by the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 which follows the polluter pays principle, by improving the powers available for district councils to take action against those caught dropping litter as well as requiring businesses and landowners to play their part in keeping land and premises clean and in clearing-up.

3. Consultation

This RIA is subject to a full 12-week public consultation. The consultation responses will be analysed with a view to identifying any new significant costs that are not identified in this draft RIA.

4. Options

Option 1 – No change - continue to allow district councils to issue Street Litter Control Notices only in respect of premises currently listed in the Street Litter Control Notices Order (Northern Ireland) 1995.

Option 2 – Extend the list of premises to allow Street Litter Control Notices to be issued in respect of all pubs, bars, cafes, restaurants and other eating and drinking venues, including a vehicle, stall or other moveable structure, outside which litter of all types may be

dropped by customers. This would be achieved through an amendment to the Street Litter Control Notices Order (Northern Ireland) 1995.

The Department's preferred option is to introduce the amendment contained in option 2.

5. Costs and Benefits

5.1 Sectors and groups affected

The key sectors and groups affected are:

- (i) District councils who might issue additional Street Litter Control Notices;
- (ii) Businesses which could be affected by additional Street Litter Control Notices; and
- (iii) The public, who are suffering from litter on the street.

Option 1 – For the purpose of this draft RIA the baseline is the existing form of Street Control Litter Notice as described in section 4 above. Currently, when litter and smoking-related materials are dropped on the street outside eating and drinking venues, district councils are required to clear up the litter under Article 7 of the 1994 Order.

At present Street Litter Control Notices can only be placed on the following establishments:

- (a) premises used wholly or partly for the sale of food or drink for consumption off the premises;
- (b) premises used wholly or partly for the sale of food or drink for consumption on a part of the premises forming open land adjacent to the street;
- (c) premises used for wholesale or retail sale of any goods on a part of the premises forming open land adjacent to the street; and
- (d) other commercial or retail businesses listed in the Street

Litter Control Notices Order (Northern Ireland) 1995 which have a frontage onto a public street, such as a service station or entertainment venue.

For all other eating and drinking premises, district councils are solely responsible for clearing litter from the street and providing any disposal facilities.

Option 2 – This option would extend the number of businesses covered by the Street Litter Control Notice provisions as described in Option 1 to include **any** eating or drinking venue with a frontage on the street which has a **recurrent defacement problem** from litter. This would extend the scope of Street Litter Control Notices to include eating and drinking venues that sell food or drink for consumption exclusively on the premises, including a vehicle or stall or other moveable structure which is used for one or more commercial or retail activities.

The costs and benefits of option 2 are considered in the section below as the implications are similar for those groups and sectors that would be affected.

5.2 Analysis of Costs and Benefits

All the costs and benefits in this section, in accordance with guidance, are presented in terms of the impact to society as a whole. Therefore, they do not take account of transfers between groups, such as fixed penalty fines or transfers of liability. A relevant issue with this methodology in this case is that it does not highlight the impact of passing the liability associated with keeping an area clean from the district council to businesses.

This transfer of liability from the district council to the polluting undertaking, as highlighted previously, ensures that businesses face the correct incentives to employ all cost justified preventative measures. This transfer of liability creates a net benefit to society as new preventative measures are employed to reduce the cleaning costs, as set out below.

Table 1 below presents the estimated annual value of transfers from district councils to businesses. These figures are based on an annual cleaning cost of around £700 per site (see option 1 – Costs, below). It should, however, be noted that this transfer does

not take into account the potential reduction in cleaning costs, which are estimated to halve the annual cost.

In addition to the transfer of the annual cleaning costs, the annual transfers also include fixed penalty fines which are issued in the event of non-compliance with Street Litter Control Notices (more information is provided in Section 8 – Enforcement and Sanctions). This results in a transfer between the businesses and the district councils.

Table 1: Annual transfers between district councils and businesses

	Number of Street Litter Control Notices issued per district council		
	5	10	20
Cleaning costs	£91,000	£182,000	£364,000
Fixed penalty fines	£2,600	£5,200	£10,400

Option 1 – Costs

Whilst it is not possible to estimate the potential increase in the number of littered sites in the absence of the extension of the Street Litter Control Notice, we have estimated that a single site would impose a clean up cost of around £700 per year¹.

If, for example, there were to be one additional site in each district council, in the absence of the extension of Street Litter Control Notices, this places an additional total annual cost of around £18,200 on district councils. Increased littering may also incur a cost for businesses and the public if litter accumulates, resulting in a reduction in the quality of the local environment and negative impact on the economy.

¹. This figure is based on such sites requiring 20 minutes cleaning per day of litter at the current minimum wage of £5.93 per hour.

Option 1 – Benefits

There are a few minor benefits of maintaining the status quo, however, these benefits are qualitative as they could not be quantified. The identified benefits include:

- No additional costs to district councils of issuing further Street Litter Control Notices;
- No additional costs to businesses of further cleaning;
- Stability from maintaining the status quo; and
- There would be no costs to make the necessary legislative changes.

Option 2

Articles 13 and 14 of the 1994 Order provide district councils with the power, rather than an obligation, to issue Street Litter Control Notices. Therefore, district councils or businesses only face increased costs when a decision is made to utilise this power. As Notices can only be issued where there is a significant problem with litter impacting on the quality of the local environment this means that the number of Street Litter Control Notices will be very limited.

An informal survey of 16 randomly selected local authorities in England was carried out by DEFRA to estimate how many Street Litter Control Notices they were likely to issue per year following the extension of the Notices to include all eating and drinking venues as well as the occupier (or owner) of office buildings. The analysis of costs and benefits presented below is based on the responses from this survey. However, it must be noted that as only a sample of local authorities in England were consulted significant uncertainties exist around the results. Therefore, the figures presented below should be considered as illustrative only.

The survey found that on average 1-2 Street Litter Control Notices would be issued by local authorities per year with a maximum suggested level of 15. To address the uncertainties around this

figure, a range of 5 to 20 Notices per district council per year has been considered.

The cost benefit analysis is presented in two formats. The summary section presents the total costs and benefits for all the Street Litter Control Notices² issued by all 26 district councils per year. The detailed section presents the costs and benefits to a district council, business and the public of a single Street Litter Control Notice.

Option 2 – Costs

The analysis suggests that the impact of this option would impose relatively small costs on both district councils and businesses.

Table 2 below, presents the total costs of the regulation in Northern Ireland per annum based on the resource costs to businesses and the administrative costs to district councils.

The costs presented below do not consider the impacts of issuing a fixed penalty notice to non-compliant businesses as this is a transfer payment between businesses and district councils. Depending on the number of fixed penalty notices issued per year, these costs to businesses could range between £2,600 - £10,400.

² Assuming each district council issues 5, 10 or 20 Street Litter Control Notices per year, the total number of Street Litter Control Notices issued across NI is 130, 260 or 520 per year

Table 2: Estimated total costs by number of Street Litter Control Notices issued per district council per year

Number of Street Litter Control Notices issued per district council per year	Total cost per year to district councils in Northern Ireland	Total cost to businesses in Northern Ireland over 5 years³	Total cost of regulation for Street Litter Control Notices issued in a year (excluding enforcement costs)
5	£58,500	£20,000-£35,000	£78,000-£100,000
10	£117,000	£30,000-£100,000	£140,000-£200,000
20	£234,000	£90,000-£150,000	£300,000-£500,000

Costs to district councils of a single Street Litter Control Notice

Estimates obtained from the survey of local authorities in England suggest that the cost of issuing Notices, including investigation, appeal, follow-up and administration is around £450 per Notice.

Two key conservative assumptions have been made to ensure that the costs to district councils are likely to be over estimated in this calculation. These assumptions have been made to ensure that the results of the cost benefit analysis, is pessimistic. These assumptions are:

³ Costs to businesses are considered over a 5 year period to be consistent with the benefits estimation that makes the conservative assumption only to consider the benefits over this period.

- That a Street Litter Control Notice will only last for 5 years and therefore administrative costs for district councils would be incurred every 5 years for the duration of a Street Litter Control Notice; and
- That businesses do not voluntarily comply with the request before a Street Litter Control Notice has been issued, thereby reducing the cost imposed on district councils.

However, in addition to the administration costs of issuing the Street Litter Control Notices, district councils will face enforcement costs should businesses not comply with the Street Litter Control Notice. However due to the unavailability of costs to district councils of enforcing a Street Litter Control Notice in the courts, this is not presented in the cost section of this RIA. However, it is likely that the level of compliance is going to be high⁴ and therefore the court costs will be low. Additionally, the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (the 2011 Act) will introduce the option of issuing fixed penalty notices for non-compliance, from which district councils may retain the receipts for further enforcement. Such fines act as a transfer rather than a real cost as although the penalties would appear as costs to the business they are revenue to district councils.

Cost to businesses

When district councils issue Notices to businesses, the businesses have a choice of complying with the Notices or challenging the Notice. If it is assumed that 80%⁵ of businesses will comply with the Street Litter Control Notice, the remaining 20% will be issued with a fixed penalty notice. When faced with a fixed penalty, businesses may either choose to pay the penalty or pursue the matter in the courts. For the purpose of this RIA, we have assumed the upper bound i.e. 80% compliance rate of the fine therefore 96% of the total businesses face cleaning costs due to this measure while 4% challenge the Notice in the courts.

⁴ The compliance rate is estimated at around 95% based on compliance data presented in the “cost to business”.

⁵ This is based on the assumption made in the 2011 Act draft RIA of an 80% compliance rate for the Street Litter Control Notice.

Costs to businesses if they comply with Street Litter Control Notices

Businesses who comply with the requirements of the Street Litter Control Notices have to ensure that the defacement does not occur. The Notice may require them to achieve this through preventative measures, such as installing smoking bins outside their premises, or through additional cleaning of litter from publicly accessible land within a specified distance of the premises (100m). This transfers the cleaning cost from the district council to the source of the litter.

Installing litter bins

Installing disposal solutions would impose a front loaded one-off cost on business, with, for example, smoking bins ranging from around £30 to £100. The size and number of bins required would vary depending on the premises and number of individuals using it. For simplicity this RIA assumes that a single bin would suffice. However, where sites require more than one bin we may expect the potential benefits to be proportionately increased. Maintaining and emptying bins is an ongoing but minimal cost (assumed at between 5 and 10 minutes work a week), and in some cases district councils will empty wall-mounted bins outside businesses as part of their cleansing service.

Costs to businesses if they do not comply with Street Litter Control Notices

In the event of non-compliance with a Street Litter Control Notice, a district council can issue a fixed penalty notice to the occupier (or owner) of the premises, with recourse to the courts if it is unpaid. For those who do comply with the fixed penalty notice, they pay the fine of £100 as well as complying with the Street Litter Control Notice. However, as district councils are entitled to the receipts of these fines, it is a transfer payment between the businesses and district councils i.e. the fixed penalty notices appear as costs to businesses and benefits to district councils.

The cost to businesses if they choose to pursue the matter in the courts will depend on the probability of the courts issuing a fine and the level of the fine and is therefore not considered here.

Benefits of option 2

Improving district councils' power to deal with litter may have wide-ranging economic, environmental and social benefits. However, there is a significant lack of relevant information available. These gaps include both monetary values to be applied to benefits (i.e. the disamenity value of litter) and the quantification of benefits (i.e. number of increased tourists due to reduced litter).

The illustrative annual benefits of this measure, based on the number of Street Litter Control Notices issued to businesses per district council, is presented in Table 3 below. The range of the number of Street Litter Control Notices issued per year for all district councils has been set as between 130 to 520, although as set out previously we only expect around 100 to be issued.

Table 3: Total benefits by number of Street Litter Control Notices issued per district council per year

Number of Street Litter Control Notices issued per district council per year	Reduction in cleaning costs	Reduced sightings of litter	Reduced fire costs	Total benefits for this measure
5	£27,000- £35,000	£82,000	£8,000- £10,000	£115,000- £120,000
10	£54,000- £70,000	£160,000	£8,000- £10,000	£200,000- £240,000
20	£108,000- £140,000	£320,000	£8,000- £10,000	£430,000- £450,000

This evaluation presents the benefits information in two parts, the first part sets out the benefits which have been quantified and monetarised and the second describing the qualitative benefits.

It must be noted that the quantified benefits have been estimated making conservative assumptions where data is not available. The key assumption being that the benefits associated with issuing a Street Litter Control Notice only lasts for 5 years. In reality Street Litter Control Notices are not time limited and therefore the actual benefits are likely to be greater than presented here. All the other assumptions are described in detail with justifications below.

Quantified and monetarised benefits

The three benefits which have been monetarised are:

- Public benefits from reduced litter;
- Reduced cleaning costs from preventative measures; and
- Lower fire damage risk.

Public benefits from reduced litter

Significant amounts of litter, as would be necessary to consider a Street Litter Control Notice, are unsightly. As such it imposes disamenity costs on anyone who observes such a site. While this cost is reduced by district councils' efforts to clean these sites the recurrent nature of litter in such sites means that there will be periods between cleaning where costs are imposed on the public. By placing the responsibility on the establishment (i.e. pubs/cafes) outside of which there is this recurrent defacement, this disamenity cost should be reduced as more appropriate cleaning techniques and preventative measures are employed.

Unfortunately data is not currently available to fully quantify the value of this potential benefit. Therefore, this section has made a number of very conservative assumptions to quantify the likely benefits.

For the purpose of this illustrative example, we made the following assumptions:

- The disamenity cost imposed per viewing is 2p⁶;
- The site is viewed⁷ 30 times per day;
- The lifetime of a Street Litter Control Notice of 5 years⁸; and
- Duration where disamenity is incurred is 4 days a week⁹.

Based on these assumptions the disamenity value over five years is £626 per site.

Reduction in cleaning costs of litter

The cost of cleaning can be reduced substantially through simple preventative measures. For example, the provision of dedicated litter bins can reduce the resultant litter substantially.

The illustrative example below shows the impact of a Street Litter Control Notice in reducing costs associated with litter.

⁷ A valuation of 2p is unlikely to be over estimate as research shows that clean streets are regarded as being in the top most important issues to people's quality of life. There is also a growing body of evidence that well-maintained environments free from litter can increase inward investment and attract workers and new residents to an area.

⁷ It may be that the viewings of the litter may be made by different people or by the same person. We assume here that there is no diminishing marginal disutility per viewing such that each consecutive viewing to an individual causes the same level of disamenity.

⁸ The lifetime of 5 years is considered to be equal to the lifetime of the cigarette bin, which may be out outside businesses to reduce litter.

⁹ Based on district councils cleaning occurring once a week and after cleaning it takes 3 days for the litter to build up to a level which causes public disamenity.

The assumptions made for this example are:

- It takes 30 minutes to clean a littered site;
- Cleaners are paid the minimum wage of £5.95 per hour;
- New bin reduces cleaning time by between 30% and 50%¹⁰; and
- The lifetime of a bin and Street Litter Control Notice is 5 years.

Based on the assumptions above, the reduction in the cost of cleaning a littered site is between £209 and £358. Given the scale of these savings and the relative costs of a bin we would expect the majority of businesses to choose to install litter bins.

Non quantitative benefits of option 2

In addition to the benefits quantified above, there are other benefits which have not been quantified or valued. The ability for district councils to demand greater co-operation from businesses may result in a number of improvements for the private and public sectors. They are briefly described below:

Private sector benefits

Reduced litter has the additional benefits of improving the image of the neighbourhood and therefore attracting more tourism and therefore increased spending in the area. Reduction in litter from an area can have an effect on individual behaviour. As individuals are more likely to throw litter to an already defaced place and less likely to throw litter in a clean area, therefore a cleaner area is likely to stay cleaner for longer. Clean streets and neighbourhoods have wider benefits to businesses in the area as it improves business image and encourages increased investment in the local business.

¹⁰ Based on an 80% reduction in the level of litter.

Public sector benefits

In addition to a reduction in cleaning costs for district councils and reduction in fire hazards, these Notices are likely to have other benefits as well. A cleaner neighbourhood will also lead to a reduction in fear from anti-social behaviour. Clean streets and neighbourhoods also lead to an increased sense of civic pride and improved community interaction. Overall, a cleaner neighbourhood will lead to a better quality of life for the individuals living in that area.

Therefore, it is evident that in addition to the benefits which have been valued and quantified there are a large number of benefits from this proposal which have not been valued. So, a combination of the benefits of the measure will quite evidently be higher than the costs of the measure.

6. Small Firms Impact Test

All businesses with fewer than 25 full-time employees are regarded as being small businesses for the purposes of this draft RIA. Many businesses affected by this proposal are likely to be small firms.

This section deals with some likely impacts on small businesses resulting from this proposal.

The potential costs that may be incurred on small businesses as a result of the extension of the Street Litter Control Notice provisions include the installation of litter bins (portable or wall-mounted) ash trays and/or requirement to clear up litter from outside the premises. They would also be responsible for emptying any litter bins that are installed, unless arrangements for emptying are made with the district council. It is, however, unlikely that such costs would jeopardise the viability of a small business, given that the estimated total cost of a 5 year Street Litter Control Notice on a business is estimated at between £150 and £330.

Section 5.2 of this draft RIA outlines the likely benefits associated with the proposal. Weighted against the potential costs are the private sector benefits to be gained from cleaner streets resulting in an improved business image and increased investment.

The current proposal is to extend an existing regulation; it does not involve the introduction of any new powers. The Department expects district councils to work in partnership with local businesses first to tackle the problem of street litter, using Street Litter Control Notices only as a last resort. Draft guidance on the 1994 Order will set out the level of defacement that would be required in order to justify a Notice being issued. The cleanliness of the land would need to have fallen to at least a Grade C (widespread distribution of litter with minor accumulations) in accordance with the Code of Practice on Litter before a district council considers using the Street Litter Control Notices powers.

Street Litter Control Notices can already be issued to small businesses covered under option 1 of this draft RIA, such as fast food takeaways, bakeries, newsagents and local grocery stores. Very few Street Litter Control Notices have been issued by district councils.

Street Litter Control Notices form one component of a package of legislative tools available to district councils for dealing with the litter problems in their area, including the power to issue fixed penalty notices to those individuals caught dropping litter. Under the 2011 Act, new powers will be provided to enable district councils to take more immediate and effective action to improve the quality of the local environment. New measures being introduced in to the 1994 Order by the 2011 Act will enable district councils and other enforcement agencies to take swifter action against those responsible for the commission of low level environmental offences, and to require the clear-up of litter. Land and property owners are expected to take some responsibility for the condition of their land and property and the impact it has on the local area, but only at the same time as the behaviour of those committing the offences is tackled.

District councils would be expected to inform the businesses in their area of any changes to the legislation. The Department will issue a "Guidance on Litter" document to reflect this and in this guidance shall ensure that district councils must include information about how they intend to use Street Litter Control Notices in their enforcement strategies, and ensure this is widely published both to businesses and the local community.

7. Competition Assessment

There are no perceived competitive or competitor impacts resulting from this measure.

8. Enforcement and Sanctions

If a business refused to comply with the Notice, prior to measures in the 2011 Act coming into force, the district council had to apply to a court of summary jurisdiction for an Order to require the person to comply with the Notice. With the coming into operation of the 2011 Act it will immediately be an offence to fail to comply with the requirements of the Notice so that a prosecution may be sought. A person found guilty of this offence may be given a fine of up to a maximum level 4 (currently £2,500) in a court of summary jurisdiction. Fixed penalty notices may now also be issued as an alternative to prosecution by an authorised officer of a district council. Under Article 14A(4)(a) of the 1994 Order the district council may set the level of the fixed penalty, within a range of £75 to £110 prescribed by the Department in regulations. Alternatively, a default amount of £100 applies.

Action can only be taken for the failure of the occupier or owner to carry out measures detailed in the Notice. For example, if a business is required to install a bin and does so, it cannot be held responsible for the failure of individuals to use it. District councils should utilise their powers under Articles 7 and 8 of the 1994 Order to enforce the offence of dropping litter.

As mentioned in the costs and benefits analysis of this RIA, there is a cost transfer associated with enforcement action from businesses to district councils. The amount of this transfer will depend on the level of compliance of businesses with Street Litter Control Notices. It is assumed there will be a compliance rate of 80% and the remaining 20% of businesses will be issued with a fixed penalty notice. Based on the default level of £100 for these fixed penalty notices, the total transfer from businesses to district councils would be in the range of £2,600 to £10,500 with a central estimate of £5,300 based on 5 Street Litter Control notices being issued per council per year.

However, of those businesses issued with a fixed penalty notice there will be a number that choose not to pay the fixed penalty and

will instead be subject to prosecution in a court of summary jurisdiction. We assume that 75% to 80% of businesses will pay the penalty rather than face prosecution. For the 15% to 20% of businesses issued with a fixed penalty notice that decide not to pay it, they may subsequently face a fine in a court of summary jurisdiction. The level of the fine awarded may be up to £2,500, but based on figures from actual court proceedings in the UK, a level of £700 is more likely. Based on the central estimate of 130 Notices being issued per year, it is expected that 4% of businesses or 5 in total would end up facing these court costs.

9. Monitoring

The Department requests information from district councils on the number of fixed penalty notices issued for environmental crimes on an annual basis. This includes details of the number of unpaid fines and cases of non-payment pursued to a court of summary jurisdiction. As of April 2012, data will be collected on all fixed penalty provisions introduced by the 2011 Act, including statistics on fixed penalties issued for failure to comply with a Street Litter Control Notice. The Department will also be seeking information on the number of Street Litter Control Notices issued by district councils as part of ongoing monitoring and evaluation of the use and effectiveness of new and amended powers being introduced by the 2011 Act.

10. Summary and Recommendation

This proposal would allow district councils to require the occupiers/owners of pubs, bars, restaurants, cafes and other food and drink venues to play a greater role in dealing with the problem of litter.

The summary of costs and benefits is presented in **Table 4** below:

Table 4: Summary of quantified costs and benefits

Number of Street Litter Control Notices (per district council per year)	Total cost	Total benefit	Net Benefit
5	£78,000- £100,000	£115,000- £120,000	£15,000 - £42,000
10	£140,000- £200,000	£220,000- £240,000	£20,000 - £100,000
20	£300,000- £500,000	£430,000- £450,000	£130,000- £150,000

The analysis of costs and benefits in this draft RIA shows that this proposal will result in a net benefit to society overall, since Notices will only be issued in a minority of cases where there is a significant problem with litter causing defacement of land on, or in the vicinity, of a street. The costs imposed on both district councils and businesses would be relatively small and outweighed by the benefits associated with improved amenity, reduced cleaning costs from preventative measures and reduced fire risk. It is recommended that the amendment in option 2 is pursued. A draft Statutory Rule which would give effect to the necessary amendment is attached.

2011 No.

ENVIRONMENTAL PROTECTION

**Street Litter Control Notices (Amendment) Order (Northern
Ireland) 2011**

Made - - - - - ***

Coming into operation - - - - - ***

The Department of the Environment, makes the following Order in exercise of the powers conferred by Article 14(1) of the Litter (Northern Ireland) Order 1994⁽¹⁾.

Citation and commencement

1. This Order may be cited as the Street Litter Control Notices (Amendment) Order (Northern Ireland) 2011 and shall come into operation on the XXXX 2011.

Amendment

2. In Article 2 (specified descriptions of commercial and retail premises) of the Street Litter Control Notices Order (Northern Ireland) 1995 ⁽²⁾ for paragraph (b) substitute—

“(b) premises used wholly or partly for the sale of food or drink for consumption on the premises,”

Sealed with the Official Seal of the Department of the Environment on ***

Denis McMahon
A senior officer of the
Department of the Environment

⁽¹⁾ 1994(N.I.10)
⁽²⁾ 1995(N.I.42)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Street Litter Control Notices Order (Northern Ireland) 1995 (S.R.1995 N.I.42). Article 2 of that Order prescribes the descriptions of commercial or retail premises in respect of which a street litter control notice may be issued. Paragraph (b) of that Article is replaced such that premises used wholly or partly for the sale of food or drink for consumption on the premises are prescribed.

ANNEX E

EQUALITY SCREENING

Background

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity between:

persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;

men and women generally;

persons with a disability and persons without; and

persons with dependants and persons without.

In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

Screening Analysis

The purpose of this exercise is to assess whether or not the Department's proposals to amend and update the current litter system with a new litter control regime may or may not have a differential impact on any of the section 75 categories. It has been performed in accordance with the Department's Equality Scheme approved in 2001. It is based upon the criteria contained in the guidance for performing the 'screening' to identify if any of the nine categories of groups identified in section 75 might be affected by the policy proposals (religion, political opinion, race, age, marital status, gender, sexual orientation, disability, dependants).

The screening analysis is summarised below.

1. Is there any indication or evidence of higher or lower participation or uptake by different groups within any of the nine categories?

NO

2. Is there any indication or evidence that any of the section 75 categories have different needs, experiences, issues and priorities in relation to this policy issue?

NO

3. Have consultations in the past with relevant groups, organisations or individuals within any of the section 75 categories indicated that policies of this type create problems that are specific to them?

NO

4. Is there an opportunity to better promote equality of opportunity or community relations by altering the policy or by working with others in Government or in the larger community in the context of this policy?

NO

Conclusion

As part of its Clean Neighbourhoods agenda, the Department is considering ways to tackle environmental problems relating to litter. Given that the overall aim of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 is to improve the quality of life for all of the people of Northern Ireland, the Department is of the view that the proposed legislation on litter does not have a significant negative impact on equality of opportunity on any of the groups specified in section 75 of the Northern Ireland Act 1998.

As a result of the screening analysis, we consider that there will be no significant implications for equality of opportunity as a result of the policy and legislative proposals outlined in this consultation document. A full Equality Impact Assessment is therefore not considered necessary.

ANNEX F

RURAL PROOFING

Rural proofing is a process to ensure that all relevant Government policies are carefully and objectively examined to determine whether or not they have a different impact in rural areas from that elsewhere, because of the particular circumstances of rural areas, and where necessary, what policy adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community.

This paper contains the Department's proposals to improve the environmental quality of our public spaces and local neighbourhoods by the introduction of a new litter regime. The proposals are intended to help district councils across all of Northern Ireland to deal more effectively with environmental problems relating to litter, many of which affect the general appearance and cleanliness of their respective districts and the quality of life for those who live and work there. Generally the proposals are more likely to be used where the need is greatest in deprived and built up areas, however, councils will also be able to apply any new powers in rural areas as and when required. The Clean Neighbourhoods agenda does not, therefore, have a different impact in rural areas and does not affect accessibility to public services in rural areas.

ANNEX G

LIST OF CONSULTEES

<p>ANVIL Ireland arc21 Attorney General Belfast Community Safety Partnership Belfast Solicitors Association Blue Cross British Library Bryson Charitable Group Canine Partners for Independence Catholic Bishops of NI Chartered Institute of Environmental Health NI Chartered Institute of Wastes Management NI Children in Northern Ireland Children's Law Centre Civil Law Reform Division Community Places Community Relations Council Confederation of British Industry NI Conservation Volunteers Countryside Alliance Disability Action District Councils District Judge – Magistrates' Court Education and Library Boards Environment Committee of the NI Assembly Environment and Planning Law Association of NI Environmental Health Groups Environmental Law Foundation Environmental Protection UK Equality Commission for NI Equality Forum NI Executive Council of the Inn of Court of NI Federation of Small Businesses NI Fermanagh Trust Fields in Trust Friends of the Earth Groundwork NI HM Council of County Court Judges</p>	<p>Include Youth Judicial Studies Board Law Centre NI Law Society of NI Living Streets Local Government Staff Commission Local Government Technical Advisors Group (TAG) MLAs Mourne Heritage Trust National Library of Ireland National Trust NIC/ICTU NIPSA North South Ministerial Council North West Region Waste Management Group NI Amenity Council NI Association of Citizens Advice Bureaux NI Chamber of Commerce and Industry NI Chief Environmental Health Officers' Group (CEHOG) NI Council for Voluntary Action NI Court Service NI Environment Link NI Judicial Appointments Commission NI Law Commission NI Local Government Association (NILGA) NI MEPs NI MPs NI Ombudsman NI Political Parties NI Tourist Board Participation and the Practice of Rights Project PlayBoard Queens University Belfast, School of Law Royal National Institute for Deaf People Royal National Institute of Blind People Society of Local Authority Chief Executives (SOLACE) SWaMP2oo8</p>
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Human Rights Commission	Sustainable NI Tidy Northern Ireland Ulster Wildlife Trust University of Ulster, School of Law Woodland Trust NI
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