



Department of the  
**Environment**  
[www.doeni.gov.uk](http://www.doeni.gov.uk)

**ENVIRONMENTAL POLICY DIVISION**

**DRAFT REMOVAL AND DISPOSAL  
OF VEHICLES (PRESCRIBED PERIODS)  
REGULATIONS (NORTHERN IRELAND)  
2012**

**GUIDANCE ON NUISANCE PARKING AND  
ABANDONED VEHICLES LEGISLATION**

**A CONSULTATION PAPER**

**CLOSING DATE - 21 DECEMBER 2011**

# CONTENTS

	<i>Page</i>
RESPONDING TO THIS CONSULTATION	3
INTRODUCTION	7
CONSULTATION ISSUES	8
ANNEX A DRAFT GUIDANCE	10
ANNEX B DRAFT REMOVAL AND DISPOSAL OF VEHICLES (PRESCRIBED PERIODS) REGULATIONS (NI) 2012	23
ANNEX C EQUALITY IMPACT SCREENING	25
ANNEX D RURAL PROOFING	27
ANNEX E LIST OF CONSULTEES	28

## RESPONDING TO THIS CONSULTATION

Information about this publication and further copies are available from the address overleaf. This document is also available on the DOE website<sup>1</sup> and may be made available in alternative formats and, if appropriate, consultees are asked to contact the Department to discuss their needs.

### **How To Respond**

Respondents are requested to explain who they are and, in the case of representative groups, to give a summary of the people and/or organisations they represent. The Department will acknowledge receipt of each response.

Please send your responses to:

Mark Allison  
Department of the Environment  
Environmental Policy Division  
6<sup>th</sup> Floor – Goodwood House  
44 – 58 May Street  
BELFAST  
BT1 4NN

E-mail: [mark.allison@doeni.gov.uk](mailto:mark.allison@doeni.gov.uk)

Telephone: (028) 9025 4878

Textphone: (028) 9054 0642

Fax: (028) 9025 4732

**The closing date for responses is 21 December 2011.**

---

<sup>1</sup> [http://www.doeni.gov.uk/clean\\_neighbourhoods.htm](http://www.doeni.gov.uk/clean_neighbourhoods.htm)

## **Publication Of Responses**

In line with the Department's policy of openness, at the end of the consultation period copies of the responses received may be made publicly available, upon request, from the Department. The information they contain may also be published in a summary of responses.

The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response please read the paragraphs below on the confidentiality of consultations which provide guidance on the legal position concerning any information provided by you in response to this consultation.

If you do not consent to this, you must clearly request that your response is treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request. You should also be aware that there may be circumstances in which the Department will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000<sup>2</sup> and the Environmental Information Regulations 2004<sup>3</sup>.

## **Freedom of Information Act 2000**

The Freedom of Information Act gives the public a right of access to any information held by a public authority, in this case, the Department. This right of access to information includes information provided in response to a consultation exercise. The Department cannot automatically consider as confidential information supplied to it in the course of a consultation exercise. However, the Department does have a responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to this consultation will not be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act<sup>4</sup> provides that:

---

<sup>2</sup> 2000 c. 36

<sup>3</sup> S.I. 2004/3391

<sup>4</sup> <http://www.justice.gov.uk/guidance/docs/foi-section45-code-of-practice.pdf>

- (a) The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- (b) The Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature;
- (c) Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office.<sup>5</sup>

## **Equality Issues**

Under section 75 of the Northern Ireland Act 1998<sup>6</sup>, public authorities have a statutory duty to promote equality of opportunity. We have completed an equality screening of the proposals and have concluded that they do not impact on equality of opportunity on any of the groups specified in section 75. A summary of the screening paper is attached as Annex C and the full screening paper will be posted on the DOE Equality Unit website<sup>7</sup>.

The Equality Commission will receive copies of this consultation document as part of the consultation exercise. We will take into account any comments that the Commission might have.

## **Human Rights Issues**

The Human Rights Act 1998<sup>8</sup> implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. We believe that the proposals in this consultation document are compatible with the Human Rights Act, but would welcome any views that you might have.

---

<sup>5</sup> See <http://www.ico.gov.uk/> for details

<sup>6</sup> 1998 c. 47

<sup>7</sup> [http://www.doeni.gov.uk/index/information/equality\\_unit.htm](http://www.doeni.gov.uk/index/information/equality_unit.htm)

<sup>8</sup> 1998 c. 42

The Human Rights Commission will receive copies of the consultation document as part of this consultation. We will take into account any comments that the Commission might have.

### **Regulatory Impact Assessment**

A regulatory impact assessment on the Clean Neighbourhoods and Environment Bill (Northern Ireland) 2010 can be accessed on the Department's website<sup>9</sup>. A separate regulatory impact assessment has not been produced for these Regulations as they have no impact on the costs to business.

### **Rural Proofing**

It is Government policy that all Government Departments and Agencies intending to introduce a new policy should subject that policy to rural proofing. Annex D sets out the likely effects of the proposals.

---

<sup>9</sup> [http://www.doeni.gov.uk/pdf\\_version\\_of\\_clean\\_neighbourhoods\\_consultation\\_document.pdf](http://www.doeni.gov.uk/pdf_version_of_clean_neighbourhoods_consultation_document.pdf)  
(pp. 134-158)

## INTRODUCTION

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (“the 2011 Act”), which received Royal Assent on 4 May 2011, strengthens the legislative powers available to district councils to help them deal more effectively with a range of local environmental quality problems such as dog fouling, litter, graffiti and fly posting, nuisance parking, abandoned vehicles, statutory nuisance and noise.

Before the Act comes into operation it will be underpinned by subordinate legislation and the Department will also be issuing a series of guidance notes to assist district councils and others to understand, and, where appropriate, make use of the new powers.

This document contains guidance in draft form in so far as it relates to nuisance parking and abandoned vehicles legislation, together with draft Regulations implementing provisions concerning the removal of abandoned vehicles and the disposal of removed vehicles by district councils under Articles 30 and 31 of the Pollution Control and Local Government (Northern Ireland) Order 1978 .

We welcome views on any aspect of the guidance or regulations.

## CONSULTATION ISSUES

**Nuisance Parking and Abandoned Vehicles: Commencement of Sections 2 to 10 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011**

**Removal and Disposal of Vehicles (Prescribed Periods) Regulations (Northern Ireland) 2012**

### **(A) Guidance for District Councils**

1. The attached document provides guidance for district councils on the nuisance parking provisions in sections 2 to 6 of the Clean Neighbourhoods and Environment (Northern Ireland) 2011 (“the 2011 Act”) and on the provisions on abandoned vehicles in the Pollution Control and Local Government (Northern Ireland) Order 1978 (“the 1978 Order”) as amended by sections 7 – 10 of the 2011 Act.
2. Section 31A of the 1978 Order, as inserted by section 10 of the 2011 Act, places a requirement on a district council to have regard to any guidance issued to it by the Department for the purposes of exercising any function conferred under Article 30 or 31 of the 1978 Order.
3. It is intended as a statutory guide for district councils to use when exercising their duties regarding abandoned vehicles. It is not a replacement for the legislation and should be read in conjunction with the legislation and explanatory notes.
4. The guidance in so far as it relates to nuisance parking provisions is of a non statutory nature.
5. It is intended to publish this guidance when sections 2 to 10 of the 2011 Act are implemented. The purpose of this consultation is to seek your comments on the draft guidance.

### **(B) The Road Traffic Regulation (Northern Ireland) Order 1997**

6. Sections 11 to 13 of the 2011 Act make amendments to the Road Traffic Regulation (Northern Ireland) Order 1997 in respect of the removal and disposal of vehicles by the PSNI and the Department for Regional Development. However, this guidance

does not cover these provisions as it is not appropriate for one government Department to issue guidance to another.

**(C) Removal and Disposal of Vehicles (Prescribed Periods) Regulations (Northern Ireland) 2012**

7. During the consultation on the Clean Neighbourhoods and Environment Bill, some consultees commented that prescribed periods for landowner objections under Article 30(2) (removal) and vehicle owner objections under Article 31(1)(c)(ii) and 31(5) (disposal) of the 1978 Order remained unprescribed.
8. The Department confirmed that it would undertake to prescribe these highlighted periods in Regulations to be brought into operation at the same time as the vehicles provisions of the 2011 Act.
9. Consequently, Annex B contains a draft of the Removal and Disposal of Vehicles (Prescribed Periods) Regulations (Northern Ireland) 2012. These draft Regulations prescribe 7 days as the period during which a person who appears to a district council to be an occupier of land on which there is a motor vehicle which the council proposes to remove may object under Article 30(2) of the 1978 Order.
10. The draft Regulations also prescribe 7 days as the period during which an owner may remove a vehicle before it can be disposed of under Article 31(1)(c)(ii) or 31(5) of the 1978 Order.
11. Comments are also welcomed on the draft Regulations.

## Draft Guidance on Nuisance Parking and Abandoned Vehicle Legislation

### OVERVIEW

This document provides guidance for district councils on the nuisance parking provisions in sections 2 to 6 of the Clean Neighbourhoods and Environment (Northern Ireland) Act 2011 (“the 2011 Act”) and on the provisions on abandoned vehicles in the Pollution Control and Local Government (Northern Ireland) Order 1978 as amended by sections 7 to 10 of the 2011 Act.

### PART A - NUISANCE PARKING

#### 1. GENERAL PRINCIPLES

For the purpose of this guidance, the term ‘nuisance parking’ covers only those offences stipulated in sections 2 and 3 of the 2011 Act and is not intended to cover other parking infringements.

Some garages and businesses place cars for sale, for an extended period, on the road. This can cause a significant nuisance to local residents and takes up valuable car parking spaces. The same is true where sections of road are routinely used by mechanics, instead of business premises, to repair and maintain vehicles. This can look unsightly, can lead to damage of the local environment (for example, when oil is spilled or leaked) and may also present a danger to passers by.

The offence of exposing vehicles for sale on the road is intended to target those people who run a business selling motor vehicles and use the road as their “showroom”. Such behaviour is unfair to local residents who are thereby deprived of using the road to park

their private vehicles and are otherwise disrupted as they go about their daily lives by resultant obstructions and business activity.

The offence is not intended to target individual private sellers of single vehicles, rather the nuisance that is caused by the presence of numbers of vehicles being offered for sale by the same person in the course of their business. This is why the offence requires that there are two or more vehicles being offered for sale for the purposes of a business.

It is recognised that a private individual may on occasion have more than one car to sell in a personal capacity and decide to offer them for sale by parking them close together on a road, but it is expected that this will only happen on rare occasions and for limited periods. A person who can demonstrate that he is acting in such a capacity, and not for the purposes of a business, is not liable to conviction for the nuisance parking offence.

Creation of the offence of repairing a vehicle on the road is also aimed primarily at those who act irresponsibly in the course of a business using the road to all intents and purposes as a workshop. It is not intended to target private individuals who are carrying out minor work to their vehicles (unless the repairs cause unreasonable annoyance to persons in the vicinity), or those who carry out necessary work to vehicles by the side of the road in order to get them moving again after a breakdown or accident (such as breakdown organisations and mechanics providing a mobile service), provided the work is completed within 72 hours or within such other period as is authorised by the council.

## **2. DETAILED GUIDANCE**

This part of the guidance gives a commentary on each relevant section and sub-section of the 2011 Act.

### **Section 2 – Exposing vehicles for sale on a road**

Section 2(1) sets out the particulars of the offence, i.e. a person commits an offence if:

- (a) he leaves two or more motor vehicles parked within 500m of each other on a road or roads where they are exposed or advertised for sale, or
- (b) he causes two or more motor vehicles to be so left.

Section 2(2) sets out a defence - a person shall not be convicted of an offence under subsection (1) if he proves to the satisfaction of the court that he was not acting for the purposes of a business of selling motor vehicles.

Section 2(3) sets out the penalty - a person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 (currently £2,500) on the standard scale.

Section 2(4) sets out the definitions of 'motor vehicle' and 'road'. The definition of 'road' is as defined in Article 2 of the Road Traffic Regulation (Northern Ireland) Order 1997 ("the 1997 Order"). Road "includes a public road and any street, carriageway, highway or roadway to which the public has access".

A "public road" means a road which is maintainable by the Department for Regional Development, and includes any part of such a road and any bridge or tunnel over or through which such a road passes

This is a wide definition and includes not only public rights of way, but also roads to which the public has access by permission of the landowner. By way of example it includes access roads through estates that are owned by the residents or by organisations such as housing associations. It covers both the carriageway and the footpath. A car park would not normally come within the definition of a road.

The definition of 'motor vehicle' is the same as that used in Article 36 of the Pollution Control and Local Government (Northern Ireland) Order 1978 ("the 1978 Order"), i.e. "a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer".

This definition covers cars, motorcycles the chassis of a car or motorcycle, trailers and caravans.

### **Section 3 – Repairing vehicles on a road**

Section 3(1) sets out the offence: A person who carries out restricted works on a motor vehicle on a road is guilty of an offence.

Section 3(2) defines the term ‘restricted works’ as ”works for the repair, maintenance, servicing, improvement or dismantling of a motor vehicle or of any part of or accessory to a motor vehicle” and ”works for the installation, replacement or renewal of any such part or accessory.”.

Section 3(3) sets out the circumstances in which a person is not to be convicted of an offence: A person is not to be convicted of an offence under section 3 in relation to any works if he proves to the satisfaction of the court that the works were not carried out –

- (a) in the course of, or for the purposes of, a business of carrying out restricted works; or
- (b) for gain or reward.

Section 3(4) sets out circumstances in which the defence set out in subsection (3) does not apply. The defence does not apply where the carrying out of the works gave reasonable cause for annoyance to persons in the vicinity. There is no legal definition of ‘reasonable cause for annoyance’ and interpretation of this provision will be for the courts. However, the concept of ‘reasonableness’ is one that will be familiar to district councils.

Section 3(5) sets out an additional defence, both elements of which must be demonstrated. A person is not to be convicted of an offence under this section in relation to any works if he proves to the satisfaction of the court that the works carried out were works of repair which:

- (a) arose from an accident or breakdown in circumstances where repairs on the spot or elsewhere on the road were necessary; and

- (b) were carried out within 72 hours of the accident or breakdown or were within that period authorised to be carried out at a later time by the district council.

Section 3(6) sets out the penalty. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 (currently £2,500) on the standard scale.

Section 3(7) sets out the definitions of 'motor vehicle' and 'road' used in section 3 which are the same definitions as used in section 2.

### **Sections 4 to 6 – Fixed Penalty Notices**

These sections provide for fixed penalty notices to be issued when an authorised officer believes that an offence under section 2 or section 3 has been committed. The fixed penalty is set at £100, and an authorised officer must be an employee of a district council authorised in writing by that council to issue fixed penalty notices. Guidance on fixed penalty notices is available separately, and it is strongly recommended that this is consulted before fixed penalty notices are issued.

### **The Street Trading Act (Northern Ireland) 2011**

An offence under section 2 of the 2011 Act is not intended to cover all situations and there is another piece of legislation that district councils can continue to use, where appropriate, to deal with someone who is selling vehicles on a road – The Street Trading Act (Northern Ireland) 2011.

By way of example section 17 of the Street Trading Act provides that anyone who engages in street trading without a licence, trades at a different location or on a day or at a time not specified in the licence or trades in a place or on a day not specified in a temporary licence shall be guilty of an offence which is punishable by a Level 3 fine (£1,000).

The nuisance parking provisions in the 2011 Act do not in any way detract from the powers available to district councils under the Street Trading Act. Instead they give councils additional tools to deal with a particular type of nuisance parking i.e. it is intended to

specifically target businesses using the road as their “showroom”. In these circumstances, the 2011 Act gives councils the flexibility to deal with the offence by way of a fixed penalty and allows the councils to retain the receipts. There is also a stiffer penalty on summary conviction for the offence, i.e. Level 4 (£2,500) as opposed to Level 3 (£1,000) for an offence under the Street Trading Act.

## **PART B - ABANDONED VEHICLES**

This part provides statutory guidance on the following legislation:

- Pollution Control and Local Government (Northern Ireland) Order 1978 (Articles 29 – 33 and 36)<sup>10</sup> (the 1978 Order) (as amended by sections 7–10 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011;
- The Removal and Disposal of Vehicles (Prescribed Periods) Regulations (Northern Ireland) 2012

This is intended as a guide for district councils to use when exercising their powers relative to abandoned vehicles. It is however guidance and not legislation and so it is vital that those relying upon it are fully conversant with the relevant legislation and explanatory notes.

This guidance is issued by the Department of the Environment under section 31A of the 1978 Order<sup>11</sup>. District councils must have regard to it when exercising their functions under Articles 30 or 31 of the 1978 Order. For ease of reference the guidance is drafted under the following headings:

- A) The offence of abandonment
- B) The removal and custody of abandoned vehicles
- C) The disposal of abandoned vehicles
- D) Recovery of costs connected with removed vehicles
- E) Powers of entry

---

<sup>10</sup> [http://www.opsi.gov.uk/RevisedStatutes/Acts/nisi/1978/cnisi\\_19781049\\_en\\_1](http://www.opsi.gov.uk/RevisedStatutes/Acts/nisi/1978/cnisi_19781049_en_1)

<sup>11</sup> As inserted by section 10 of the Clean Neighbourhoods and Environment Act (NI) 2011

## **A) The Offence of Abandonment**

Article 29 of the 1978 Order makes it a criminal offence to abandon a motor vehicle or anything that has formed part of a motor vehicle on any land in the open air or on any other land forming part of a road.

A person found guilty of such an offence may be punished on summary conviction with a fine not exceeding level 5 on the standard scale (currently £5,000), or, in the case of a second or subsequent conviction, to such a fine or to imprisonment for a term not exceeding three months or both.

The 2011 Act at section 7 inserted a new section 29A into the 1978 Order, allowing an authorised officer of a district council to issue a fixed penalty notice as an alternative to prosecution for the offence. The fixed penalty is set at £200, and an authorised officer must be an employee of a district council authorised in writing by that council to issue fixed penalty notices. Guidance on fixed penalty notices is available separately, and it is strongly recommended that this is consulted before fixed penalty notices under these provisions are issued.

## **B) Removal and custody of abandoned vehicles**

Article 30 of the 1978 Order and the Removal and Disposal of Vehicles (Prescribed Periods) Regulations (Northern Ireland) 2012 are the relevant legislative provisions.

### **The Duty to Remove an Abandoned Vehicle**

Where it appears to a district council that a vehicle is abandoned in its council area, it will be the duty of the council to remove that vehicle. This duty extends to abandoned vehicles on land in the open air, or any land forming part of a road, in the council area. However, in respect of abandoned vehicles that are not on a road, this duty does not apply where the costs of removing the vehicle in question to the nearest convenient carriageway is unreasonably high.

## **Definition of ‘abandoned’**

There is no legal definition of ‘abandoned’ and this guidance does not seek to create one. District council officers must use their discretion when making decisions on this point.

However, the following characteristics are generally common to abandoned vehicles and one or more of the following considerations may assist a council officer in making a decision on the point:

- (a) untaxed;
- (b) no current vehicle keeper on the Driver and Vehicle Agency’s (DVA) record;
- (c) stationary for a significant amount of time;
- (d) significantly damaged, run down or unroadworthy;
- (e) burnt out;
- (f) lacking one or more of its number plates;
- (g) containing waste

Category (d) may include vehicles with flat tyres, wheels removed or broken windows.

The above list is not exhaustive and a vehicle may be considered to have been abandoned in circumstances where none or few of the listed considerations apply. A vehicle should not be considered abandoned solely on the grounds that it is not displaying a valid tax disc. District councils should check details of the vehicle’s keeper and the vehicle taxation status with DVA prior to taking action.

## **The exception to the duty**

A district council shall not be required to remove an abandoned vehicle if the cost of removal to the nearest ‘carriageway’<sup>12</sup> would be unreasonably high.

---

<sup>12</sup> ‘carriageway’ means a way constituting or forming part of a road, being a way over which the public have a right of way for the passage of motor vehicles .

It is for the council to decide, on a case by case basis, whether the costs of removing a vehicle to the nearest carriageway (not to its final destination) are unreasonably high. In such cases, the duty to remove the vehicle ceases to apply and the council is not required to take any further action. However, such circumstances should rarely occur and should typically occur only when a vehicle has been abandoned on remote or hard to access areas, or where special and/or additional machinery is needed to aid removal.

District councils have no power to charge occupiers for the costs they incur in exercising their duty, and charges should not therefore be levied against occupiers for the removal of abandoned vehicles.

District councils may, of course, remove abandoned vehicles at the request of a third party in circumstances where the duty to remove does not apply; in such cases they are free to make arrangements with that third party to recover their costs.

### **Notice requirements**

Where a vehicle, which is deemed to be abandoned is on land that is occupied, the district council must give the occupier 7 days notice of their proposal to remove the vehicle. The council is not entitled to remove the vehicle if the occupier objects to the proposal within that period. However, if the occupier gives the council permission to remove the vehicle (e.g. if the vehicle was abandoned without their consent), the 7 day notice automatically lapses and the vehicle can be removed immediately.

The legislation does not define the term 'occupier'. The general rule is that if a term is not defined in the statute in which it is used, it is given its natural meaning. This will ultimately be for the council officer to decide. However the term 'occupier' has been previously defined as:

- (a) The tenant or licensee.
- (b) Anyone who has legal possession of and control over the premises.

Under a change introduced by the Clean Neighbourhoods and Environment Act<sup>13</sup>, a 7 day notice is not required where a vehicle is abandoned on a road (within the meaning of Article 29 of the 1978 Order), i.e. “road” includes any street, carriageway, highway or roadway to which the public has access.

The 2011 Act has removed the requirement to affix a notice to a vehicle that is deemed fit for destruction. All such abandoned vehicles can now be removed immediately.

### **Custody procedures**

District councils can remove vehicles by towing, driving or by any other means necessary. An authorised officer can also take any measures he may consider necessary to enable him to remove or move it. Under Article 74(2) of the 1978 Order, a council is not required to make good or pay compensation for any damage to a vehicle caused by an authorised officer in exercising his duty to remove it. However, while an abandoned vehicle is in the custody of a district council, the council must take all steps that are reasonably necessary for the safe custody of that vehicle.

### **C) Disposal of abandoned vehicles**

The relevant provisions are Article 31 of the Pollution Control and Local Government (NI) Order 1978 (“the 1978 Order”) and the Removal and Disposal of Vehicles (Prescribed Periods) Regulations (NI) 2012.

For certain types of abandoned vehicles, district councils will be bound to take steps to trace the owner of a vehicle and, if successful, give them 7 days written notice that the council intends to dispose of the vehicle if it is not collected within that time. If the owner is traced, the council has the option of serving a fixed penalty notice as an alternative to prosecution for the offence of abandoning the vehicle.

District councils have the power to dispose of abandoned vehicles that they have removed and are in their custody. The council may

---

<sup>13</sup> Section 8 of the 2011 Act amends Article 30(2) of the 1978 Order

dispose of an abandoned vehicle in 'such a manner as they think fit'.

End of life vehicles should only be destroyed at one of the network of Authorised Treatment Facilities. Disposal can only take place in accordance with the following timescales:

- (a) in the case of a vehicle which in the opinion of the council is in such a condition that it ought to be destroyed, at any time after its removal;
- (b) in the case of a vehicle, not falling within paragraph (a), which –
  - i) does not display a licence (i.e. tax disc) (whether current or otherwise and whether or not the vehicle is required to display a licence); and
  - ii) does not display any registration mark (i.e. number plate) (whether indicating registration within or outside the United Kingdom),at any time after its removal.

In circumstances where an abandoned vehicle is sold by a council the owner can reclaim the proceeds of sale minus any removal, storage and disposal costs that may have accrued for up to a year after the disposal.

Note: The 2011 Act has amended legislation relating to disposal of vehicles that do not display a current licence or registration mark, enabling them to be destroyed immediately after removal. A vehicle must satisfy both criteria in paragraph (b) in order to be disposed of immediately. There is no obligation to trace or inform the owner when a vehicle can be disposed of immediately under paragraphs (a) or (b).

- (c) in any other case, at any time after the council has taken reasonable steps to find a person appearing to it to be the owner of the vehicle and either:
  - i) the council has failed to find such a person; or
  - ii) he has failed to comply with a notice served on him by the council requiring him to remove the vehicle within 7 days from the custody of the council.

## **Steps to be taken to find the owners of vehicles**

If the vehicle carries a NI registration mark (number plate) the district council should find the owner and send a written notice to them (having acquired the details from the Driver and Vehicle Agency (“DVA”)) declaring that their vehicle has been removed and is being held in the council’s custody and that should they wish to reclaim it, they should do so within 7 days of the notice being served otherwise the vehicle will be disposed of.

The owner of a vehicle in custody can remove the vehicle after satisfying the district council that he is the owner and paying any expenses that the district council may have reasonably incurred. In circumstances where an abandoned vehicle is sold by a council the owner can reclaim the proceeds of sale minus any removal, storage and disposal costs that may have accrued for up to a year after the disposal.

If more than one owner claims a vehicle that is in custody, or the proceeds of the sale of that vehicle, the district council shall choose the one they ‘think fit’ and treat him as the owner for the purposes of enabling him to remove the vehicle from custody or to reclaim the costs of a sale.

## **D) Recovery of costs connected with removed vehicles**

Under Article 32 of the 1978 Order, before surrendering a vehicle to the owner, the district council is entitled to recover from the owner or the person who abandoned the vehicle, any expenses that the council has reasonably incurred –

- (a) in respect of the removal of the vehicle; and
- (b) in respect of any period during which the vehicle is in its custody; and
- (c) where the vehicle is disposed of, in respect of its disposal.

Any sum recoverable by virtue of Article 32 shall be a civil debt recoverable summarily.

If a person is convicted of an offence under Article 29(1) of the 1978 Order, the court may order him to pay any sum to the district council for the removal, storage and disposal of the vehicle to which it is entitled.

### **E) Powers of Entry**

Under Article 74 of the 1978 Order and section 98 of the Local Government Act (Northern Ireland) 1972, any person authorised in writing by a district council may at any reasonable time enter any land for the purposes of investigating the need to carry out their removal of abandoned vehicle functions.

**DRAFT REGULATIONS**


---

[ D R A F T ] S T A T U T O R Y R U L E S O F N O R T H E R N  
I R E L A N D

---

**2012 No. [ ]**

**ENVIRONMENTAL PROTECTION**

**The Removal and Disposal of Vehicles (Prescribed Periods)  
Regulations (Northern Ireland) 2012**

*Made* - - - - -

*Coming into operation* - *1st April 2012*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Articles 30(2) and 31(1)(c)(ii) and (5) of the Pollution Control and Local Government (Northern Ireland) Order 1978<sup>(14)</sup>:

**Citation and commencement**

1. These Regulations may be cited as the Removal and Disposal of Vehicles (Prescribed Periods) Regulations (Northern Ireland) 2012 and shall come into operation on 1st April 2012.

**Interpretation**

2. In these Regulations “the 1978 Order” means the Pollution Control and Local Government (Northern Ireland) Order 1978

**Period during which occupier of land may object**

3. For the purposes of Article 30(2) of the 1978 Order, the period during which a person who appears to a district council to be an occupier of land on which there is a motor vehicle which the district council proposes to remove may object shall be 7 days from the day when the notice under mentioned in that Article is served on that person.

**Period during which owner may remove vehicle before it can be disposed of**

4. For the purposes of Article 31(1)(c)(ii) of the 1978 Order, the period during which a person on whom a notice under that Article has been served shall be required to remove the vehicle of which that person appears to the district council serving the notice to be the owner from the custody of the council shall be 7 days from the day when the notice is served on that person.

---

<sup>(14)</sup> S.I. 1978/1049 (N.I. 19) as amended by sections 8 and 9 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c.23).

### **Period during which owner may remove vehicle before it is disposed of**

5. For the purposes of Article 31(5) of the 1978 Order, the period during which a person who has satisfied a district council that that person is the owner of a vehicle which is in its custody shall be permitted to remove it from its custody shall be the period commencing on the day when the council became satisfied that that person was the owner and ending on the expiration of the seventh day after that day, or at the time when the vehicle is disposed of, whichever is the later.

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



A senior officer of the Department of the Environment

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision concerning the removal of abandoned vehicles and the disposal of removed vehicles by district councils under Articles 30 and 31 of the Pollution Control and Local Government (Northern Ireland) Order 1978 as amended by the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.

The Regulations prescribe the period during which the occupier of land may object to the removal of an abandoned vehicle from that land (Regulation 3) and the period during which the owner of a vehicle may remove it from the custody of a district council (Regulations 4 and 5).

A regulatory impact assessment on the effect of the Clean Neighbourhoods and Environment Bill (Northern Ireland) is available on the Department's website (vehicles are dealt with on pp.6 to 7). A separate regulatory impact assessment has not been produced for these Regulations as they have no impact on the cost to business.

## EQUALITY IMPACT 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 replace the current dog byelaw system with a new dog control order 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 a variety of local environmental problems such as litter, nuisance, fly-posting and graffiti, dog fouling and nuisance and abandoned vehicles. Given that the overall aim of the Bill was to improve the quality of life for all of the people of Northern Ireland the Department is of the view that this legislation 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 required.

## 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. In the main the proposals are intended to help district councils across all of Northern Ireland to deal more effectively with a range of low level local environmental problems many of which affect the general appearance and cleanliness of their respective areas. 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.

LIST OF CONSULTEES

Belfast Community Safety Partnership	Local Government Staff Commission
Belfast Solicitors Association	Local Government Technical Advisors Group (TAG)
British Library	MLAs
Bryson Charitable Group	Mourne Heritage Trust
Catholic Bishops of NI	National Library of Ireland
Chartered Institute of Environmental Health NI	National Trust
Chartered Institute of Wastes Management NI	NIC/ICTU
Children's Law Centre	NIPSA
Civil Law Reform Division	North South Ministerial Council
Community Relations Council	NI Association of Citizens Advice Bureaux
Confederation of British Industry NI	NI Chamber of Commerce and Industry
Council for Nature Conservation and the Countryside	NI Chief Environmental Health Officers' Group (CEHOG)
District Councils	NI Commissioner for Children and Young People
District Judge – Magistrates' Court	NI Council for Voluntary Action
Driver and Vehicle Agency	NI Court Service
Education and Library Boards	NI Environment Link
Environment Committee of the NI Assembly	NI Judicial Appointments Commission
Environment and Planning Law Association of NI	NI Law Commission
Environmental Health Groups	NI Local Government Association (NILGA)
Environmental Law Foundation	NI MEPs
Equality Commission for NI	NI MPs
Equality Forum NI	NI Ombudsman
Executive Council of the Inn of Court of NI	NI Political Parties
Federation of Small Businesses NI	NI Tourist Board
Food Standards Agency NI	Participation and the Practice of Rights Project
Friends of the Earth	Playboard
General Consumer Council of NI	Police Service of Northern Ireland
Groundwork NI	Queens University Belfast, School of Law
HM Council of County Court Judges	Society of Local Authority Chief Executives (SOLACE)
HM Revenue & Customs	Sustainable NI
Human Rights Commission	Tidy Northern Ireland
Institute of Directors	Ulster Wildlife Trust
Ken Forbes	University of Ulster, School of Law
Lands Tribunal	Woodland Trust NI
Law Centre NI	
Law Society of NI	
Living Streets	