

AILG

Association of Irish Local Government
Aontas Rialtas Áitiúil na hÉireann

AILG Elected Member Information Leaflet The Litter Act - reserved and operational functions

Leaflet

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The Litter Management Plan

While discussion around litter mostly relates to specific instances of littering it is not generally realised that elected members have specific reserved functions under the Litter Act 1997 in the context of managing this blight on the environment.

The Litter Act makes it mandatory for a local authority to prepare a Litter Management Plan. The making, review, amendment and replacement of such plans are functions reserved for the elected members.

The Litter Management Plan is required to:

- Specify objectives to prevent and control litter;
- Set out measures to help deal with litter including the provision and maintenance of litter bins;
- Indicate initiatives to increase public awareness of littering;
- Including educational and information programmes;
- Take into account the activity of parties other than the local authority in the pursuit of litter control;
- Have regard to the Development Plan adopted under the Planning Acts with particular emphasis in relation to Special Amenity Orders
- Take into account any Waste Management Plan under the Waste Management Acts.

Making the Litter Management Plan

Where a local authority proposes to make, amend or replace a Litter Management Plan it is required to publish a notice in a local newspaper and to broadcast an announcement on three successive days on local radio stations broadcasting in the area. It is noteworthy that the radio announcement on three successive days is a requirement unique in statute law to the Litter Act.

Such notices are required to invite written submissions in relation to the making of the plan and the local authority may afford the opportunity to a person to make an oral presentation to it, or to discuss specific proposals, in relation to the proposed measures in the plan.

The local authority is also required to identify voluntary and representative bodies with an interest in controlling litter and to consult with them in relation to the making of the plan.

When the consultation is completed, the local authority is required to make the plan (and to amend or replace such a plan at three-yearly intervals) by the process of a reserved function of its elected members.

Once the plan has been approved by the members, the plan or a summary is required to be published widely in the area of the local authority.

Implementing the plan

When the Litter Management Plan is adopted, the local authority is required to implement the objectives of the plan.

Such implementation includes operational measures involving its staff and facilities; arrangements entered into with other parties; enforcement under a variety of headings; and promotional and educational projects including co-operation with community groups such as Tidy Towns.

Requirements on the local authority generally to prevent littering

In parallel with the objectives of the Litter Management Plan adopted by the members the Litter Act 1997 creates responsibilities for the local authority in relation to litter generally. For example, a local authority is required to endeavour keep each public road in its area free of litter.

In addition to its roads infrastructure a local authority is required to take all practicable measures to prevent the creation of litter in its functional area and it is mandated to take steps such as the provision and maintenance of such litter bins (as it considers necessary). In regards to the receptacles it is legally required to make arrangements for the regular cleaning and emptying of such containers sufficiently frequently to ensure that the litter bins do not become a nuisance themselves.

Public responsibilities regarding litter prevention

The Litter Act 1997 creates a general prohibition on causing litter as well as addressing specific situations where a litter nuisance might commonly be created. The Act specifies that no

person is to deposit any substance in a public place or anywhere visible from a public place which might give rise to littering. This is a legally-framed way of saying that people are causing an offence if they drop litter on the street or dump bags of litter in grass verges or other public places.

Concept of litter being created if visible from a public place

The Act creates the concept of a litter offence being caused if littering - although on private property - is visible from a public place. This includes common areas which might be associated with properties such as apartment complexes as there is a requirement on persons in charge of land which is adjacent to two or more residential properties to keep the property free of litter. The fact that unsightly material may be on private property is no defence to the charge of causing litter.

Obligation on occupiers of premises to keep footpaths clean

The occupiers of a property adjacent to a road which is governed by a built-up area speed limit are required to keep clean any footpath adjoining such a road and property notwithstanding that the footpath forms part of a public road. This is the legislative expression of the custom of householders and shopkeepers of keeping clean the path outside their premises.

Operators of mobile outlets

The Litter Act is particularly attentive to the littering potential of mobile outlets selling food, drink or produce such as chip vans and food trucks. The Act requires persons operating such facilities to not alone provide for the collection

of litter within the immediate proximity of the outlet but also to ensure that any litter is removed from the vicinity up to a distance of 100 metres of the outlet.

The local authority is given the power to serve notice on the operator to take such measures as it deems fit as regards its location and operation so as not to create a litter nuisance. The local authority may enter into a financial arrangement whereby the operator pays a contribution to the local authority which makes arrangements for the alleviation of the litter nuisance. While the operator of the outlet is required to take all such arrangements as are necessary to keep the vicinity clean the law exempts the operator from keeping tidy a roadway which is open to vehicular traffic.

Litter likely to be caused by large events

A local authority is similarly empowered to serve notice on the organisers of large events (such as concerts) in relation to litter control measures. Such a notice can require the organiser to provide a deposit in the event that the local authority itself has to take measures to deal with litter caused by the event. Where due to the timing of the events it is not possible for the local authority to take steps in advance to pre-empt the causing of litter, the local authority is empowered to take whatever measures it deems necessary and recover the costs from the organisers.

Miscellaneous litter occurrences

The Litter Act gives local authorities power to deal with litter arising in a wide variety of forms including from ATMs, public car parks, camping and caravan sites, and markets. The powers also include powers in relation to dog-fouling,

graffiti, and the erection of signs generally. There is an exemption for signs erected in relation to statutory elections on condition that any signs must be removed within seven days of the polling date.

Bye-laws

A local authority may make bye-laws in relation to the prevention of littering. Specifically, it is given power to prohibit the distribution of advertising material. Householders will perhaps be disappointed to learn that what is colloquially known as “junk-mail” is exempted from such a ban.

Enforcement

The local authority in its own right, through its litter wardens, and the Garda Síochana, have extensive powers to prosecute and enforce compliance with the Litter Acts. In some cases, fixed penalty notices may be issued while in others prosecutions may be brought to court. There are special enforcement provisions relating to ongoing contraventions, to offences caused by the owner or operator of a vehicle, and to the interpretation of evidence found in the contents of litter which has been dumped. The Litter Act specifically provides that material found in abandoned litter which indicates the identity of the perpetrator may be put forward as evidence in a prosecution.

Ministerial oversight

The Litter Act requires the Minister to issue guidelines and criteria for litter prevention to local authorities generally and empowers the Minister to give specific directions in relation to a given local authority. In the latter case notice of such directions must be published in a local newspaper.