

LAWS OF DOMINICA

LITTER ACT
CHAPTER 40:61

Act
4 of 1990
Amended by
6 of 1991

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

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CHAPTER 40:61

LITTER ACT

4 of 1990.

AN ACT to make provision for the abatement of nuisances caused by the littering of premises and public places and for purposes connected therewith or incidental thereto.

Commencement.

[22nd March 1990]

Short title.

1. This Act may be cited as the –

LITTER ACT.

Interpretation.

2. (1) In this Act –

“authorised officer” means any person appointed under section 6 of the Act and includes any police officer and any contractor or carrier authorised by the Minister for the removal of litter;

“Court” means a court of summary jurisdiction;

“derelict vehicle” means a vehicle which, by reason of its condition, appears to an authorised officer to have been abandoned;

“litter” means anything whatsoever including rubbish, oddments, leavings, coconut shells, wastepaper, cigarette ends, bottles (whether empty or not), derelict vehicles and any dead animal or carrion;

“local authority” means the Roseau City Council established under the Roseau City Council Act, the Portsmouth Town Council established under the Portsmouth Town Council Act, the Carib Reserve Council established under the Carib Reserve Act, the Canefield Urban Council established under the Canefield Urban Council Act, or any village council established under the Villages Councils Ordinance;

“Minister” means the Minister responsible for Health;

“person” includes a body corporate, an unincorporated association and a partnership;

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Ch. 25:10.

Ch. 25:90.

Ch. 25:30.

Cap. 190.

“premises” means land, other than any buildings thereon, whether vested in the State or not and includes natural water courses and drains, whether boundary or interlot drains in any private lay-out or otherwise;

“public place” means any place in which members of the public are allowed with or without payment and includes any street, road, highway, by-way, market, beach, park or garden and any place designated by the Minister a public place in accordance with section 14(b).

(2) For the purposes of the definition of the expression “derelict vehicle”, the opinion of an authorised officer shall be conclusive for all purposes, and in forming the said opinion he may take into account --

- (a) that the wheels of the vehicle or any of them or the engine or any other parts including the seats have been removed;
- (b) any other factors taken together with the fact that the vehicle is not currently or has not been licensed for the past six months.

3. (1) Any person who throws down, drops or otherwise deposits or leaves any litter in, into or upon any public place in such circumstances as to cause, contribute to or tend to lead to the defacement of any public place by such litter is guilty of an offence and liable on summary conviction to a fine of one hundred and fifty dollars and imprisonment for one month.

Offence and penalty for littering public and other places; and for aiding and abetting.

(2) Any person who throws down, drops or otherwise deposits or leaves any litter in or upon any premises owned or occupied by another person without the consent of that person, the proof whereof shall lie on the person charged, is guilty of an offence and liable on summary conviction to a fine of one hundred and fifty dollars and imprisonment for one month.

(3) A person who purposely aids, instigates or encourages another person to contravene any of the provisions of this section is guilty of an offence and liable on summary conviction to a fine of one hundred and fifty dollars and imprisonment for one month.

(4) In the case of a second or subsequent offence against any of the provisions of this section a person is liable on summary conviction to a fine of two hundred and fifty dollars and imprisonment for three months.

Schedule.

(5) Notwithstanding subsections (1), (2), (3) and (4) and without prejudice to his right to take any other steps under the authority of this Act, any authorised officer may, if he has reason to believe that any person has contravened, or is contravening any provisions of this section, issue a ticket to that person in the form in the Schedule hereto charging him with the commission of the offence and offering him the opportunity of discharging of any liability to conviction of such offence by payment of a fixed penalty under this section and notifying him that a complaint will be made against him in respect thereof and requiring him either to pay the fixed penalty within the time specified in the ticket or to appear at the Court specified in the notice on the day and at the hour stated therein to answer the said complaint.

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(6) The authorised officer shall send to the Clerk of the Magistrate for the magisterial district in which the offence is committed, a duplicate of the ticket, and that duplicate shall be deemed to be a complaint made before the Magistrate and a summons issued by the Magistrate for the purpose of the Magistrate's Code of Procedure Act.

(7) Where the fixed penalty is duly paid in accordance with the ticket, the person on whom the ticket is served is not liable to be convicted of the offence in respect of which the ticket was given and the proceedings instituted by the ticket are deemed to have been dismissed.

(8) Where a person is given a ticket under this section in respect of an offence no further proceedings shall be taken against any person for that offence until the end of the fourteen days following the date of the ticket.

(9) In the foregoing subsections "proceedings" means any criminal proceedings in respect of the act or omission constituting an offence under this section and the word "convicted" shall be construed in like manner.

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(10) Payment of a fixed penalty under this section shall be made to the Clerk of the Magistrate for the magisterial district in which the offence is committed, and sums paid by way of fixed penalty for an offence shall be treated for the purposes of the Magistrate's Code of Procedure Act as if they were fines imposed on summary conviction for the offence; and in any proceedings a certificate that payment of a fixed penalty was or was not made to the appropriate Clerk of the Magistrate by a date specified in the certificate shall, if the certificate purports to be signed by the Clerk of the Magistrate be sufficient evidence of the facts stated unless the contrary is proved.

(11) The time within which the fixed penalty is payable shall be fourteen days from the date of the ticket, and where payment reaches the Clerk of the Magistrate after that time it shall not be receivable and shall be returned to the sender.

(12) A ticket given under subsection (5) shall be prepared in triplicate, that is to say, the original which shall be served on the offender, the second copy, which the authorised officer shall send to the Clerk of the Magistrate and the third copy retained by the authorised officer, and shall specify –

- (a) the date, time and place of the giving of the ticket;
- (b) the section of the Act under which the offence is alleged to have been committed and such particulars of the offence as are necessary for giving reasonable information of the allegation;
- (c) the time within which the fixed penalty may be paid in accordance with subsection (11);
- (d) the amount of the fixed penalty;
- (e) the Clerk of the Magistrate to whom and the address at or to which the fixed penalty may be paid or remitted;
- (f) the address of the Court at which the person is required to appear in the event of his failure to pay the fixed penalty within the specified time and the date and time for his appearance; and shall state also, that during the period of fourteen days by virtue of subsection (8), no further proceedings will be taken for the offence.

(13) The fixed penalty for an offence shall be twenty-five dollars.

(14) Where the fixed penalty is not paid within the time specified in the ticket, proceedings in respect of the offence specified in the notice shall proceed in the manner prescribed by the Magistrate's Code of Procedure Act. Ch. 4:20.

4. (1) The organiser of any show, dance, bazaar, fair, or other performance or entertainment shall ensure that litter deposited in any public place adjoining the place at which the performance or entertainment is held, by a person attending the performance or entertainment is taken away within a reasonable time.

Litter deposited by
person attending
performance or
entertainment.

(2) Litter found on any public place adjoining a place where any performance or entertainment is held shall be presumed, unless the contrary is proved, to have been deposited by a person attending that performance or entertainment.

(3) A person who contravenes subsection (1) is liable on summary conviction to a fine of five hundred dollars and to imprisonment for six months.

Enforcement of the removal of litter.

5. (1) Without prejudice to any proceedings for an offence committed under any other enactment, where litter is left or caused to be kept in or on any premises, an authorised officer may give notice in writing to the person so leaving or causing any litter to be left thereupon or to the owner or occupier of such premises requiring him forthwith in the case of dead animals, carrion or other litter considered to be dangerous, or offensive to health, and in any other case within such time as may be limited by the notice (not being less than three days) to remove the litter so as to restore the premises to a satisfactory condition.

(2) A notice under this section may be served on a person personally or may be sent by post to his last known business or private address or may be posted up in some conspicuous place on the premises on which litter has been left.

(3) A notice sent by post shall be deemed to have been served, in the case of persons resident in Dominica not later than the fifth day succeeding the day on which the notice was posted and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

(4) A person who fails to comply with the requirement of a notice under subsection (1) is guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to a further fine of one hundred dollars for every day during which the offence is continued after conviction.

(5) The Minister may, without prejudice to later proceedings in respect of any failure to comply with a notice given under this section, also direct an authorised officer to enter the premises and remove the litter so left or caused to be left and may recover summarily as a civil debt the expenses reasonably incurred in so doing from the person who has failed to comply with the notice.

6. The Minister may appoint persons to be authorised officers for the purposes of this Act. Appointment of authorised officers.

7. (1) Subject to this section an authorised officer may enter any premises at all reasonable hours during the day for the purposes of section 5, and shall, in the case of a person appointed under section 6, if so required, produce his instrument of appointment issued in accordance with the provisions of that section. Power to enter premises.

(2) An authorised officer entering any premises by virtue of this section, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has so entered, shall leave them as effectively secured against trespassers as he found them.

(3) Every person who hinders or molests or interferes with any person doing anything that he is authorised to do under this Act or prevents or attempts to prevent any person from doing any such thing is guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars and imprisonment for three months.

8. (1) Without prejudice to any proceedings for an offence committed under section 3, where any derelict vehicle is left in any public place in such circumstances as to cause, contribute to or tend to lead to the defacement thereof, the Minister may give notice to the owner or to the person leaving the vehicle or causing it to be left in any public place requiring him within three days of such notice to remove the derelict vehicle therefrom. Power to remove derelict vehicles.

(2) A person who fails to comply with a notice under subsection (1) is guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to a further fine of one hundred dollars for every day during which the offence is continued after conviction.

(3) Without prejudice to his right to take proceedings in respect of failure to comply with a notice given under this section, the Minister may at any time without giving any further notice direct the authorised officer to remove the vehicle so left or caused to be left and may recover from the owner thereof the expenses reasonably incurred for such removal.

(4) The expenses determined under subsection (3) shall be deemed a judgment debt in favour of the Accountant General and shall be payable to the Accountant General together with interest at six per centum per annum computed from the date the vehicle has been so

removed, or from the date the owner of the derelict vehicle or the person leaving the vehicle or causing it to be left in the public place was informed of the amount of such expenses, whichever is the later.

Disposal of
removed vehicles.

9. (1) Where it is decided to remove a derelict vehicle in pursuance of the foregoing provisions of this Act a notice of such removal shall be published in the *Gazette* and in a local newspaper circulating in the State stating the place where the derelict vehicle has been deposited.

(2) To every such notice described in subsection (1) there shall be appended a statement to the effect that the vehicle shall be disposed of if not claimed within seven days of the notice.

(3) Where a notice has been given under the preceding subsection and no lawful claim is made by any person the Minister may dispose of the derelict vehicle in such manner as he considers fit.

(4) If, before a derelict vehicle is disposed of in pursuance of subsection (3) that vehicle is claimed by a person who satisfies the Minister that he is the owner and has paid the expenses as prescribed in respect of its removal and storage, the Minister shall permit him to remove the derelict vehicle.

(5) Where a derelict vehicle is disposed of by sale and before the expiration of three months from the date of the sale any person satisfies the Minister that at the time of the sale he was the owner thereof, such person shall be entitled to receive the amount by which the proceeds of sale exceeded the aggregate of the expenses incurred in respect of the removal, storage and disposal of the derelict vehicle.

Immunity.

10. Where the Minister directs the removal of any litter from any public place in pursuance of the foregoing provisions of this Act, no action, suit or other cause shall lie against him or the authorised officer unless it is shown that such removal was motivated by malice or fraud.

Continuing
penalties.

11. Where under this Act a daily penalty is imposed in respect of a continuing offence, the Court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the Court and, where a court has fixed such a period the daily penalty shall not be recoverable in respect of any day before the expiration of that period.

12. In sentencing a person convicted of an offence under this Act, the Court shall take into consideration not only the purposes of this Act in preventing the defacement or littering of public places and of premises, but also the nature of the litter and any resulting risk of injury or danger to health or life of any person or animal or of damage to property. Sentencing.

13. The Minister may by instrument under his hand and published in the *Gazette* assign any of his functions or powers under this Act, save those provided for in section 14, in respect of the area within the boundaries of any local authority, or any specified part thereof, to such local authority, and such local authority, and any person acting under the authority of such local authority, shall enjoy the same immunity as is provided for in section 10 of this Act. Delegation by Minister to local authorities.

14. The Minister may make Regulations providing for any of the following: Regulations.

- (a) the declaration of any area for the disposal of litter;
- (b) the designation of any area as a public place;
- (c) charges for the removal and disposal of any derelict vehicles;
- (d) any prescribed matter; and
- (e) generally for the fulfilment of the purposes of this Act or matters incidental thereto.

15. The Roseau City Council Act is amended by deleting section 18(1)(q). Amendment of Ch. 25:01.

SCHEDULE

(Section 3(5)).
[6 of 1991].

The Litter Act, 1990 Fixed Penalty Ticket

Dated the day of, 19 at

Name of Offender:

Address:

COMMITTED THE FOLLOWING OFFENCE

STATEMENT OF OFFENCE:

Deposited or left litter in a public place in such circumstances as to cause, contribute to or tend to lead to the defacement of a public place in contravention of section 3(1).

Deposited litter in or upon premises owned or occupied by another person without the consent of the owner or occupier in contravention of section 3(2).

Aided, instigated or encouraged another person to contravene the provisions of subsections (1) and (2) of section 3 in contravention of section 3(3).

Payment to be made within days of a penalty of twenty-five dollars at the Magistrate's Court,, Commonwealth of Dominica.

Should you fail to pay the fixed penalty you are hereby required to attend the Magistrate's Court on the day of, 19 at 9:00 o'clock in the forenoon at the undermentioned address as the defendant in the matter in respect of which this notice was issued.

.....
(State Name and Address of Court)

This ticket was given at on
(State Location) (State Date)

19..... at a.m./p.m.
(State time)

PARTICULARS OF OFFENCE

At a.m./p.m. on the day

of, 19 at

you

.....

.....

.....

contrary to

(State section/regulations contravened)

of the

.....

Signature of authorised officer.

Date

