

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 21 November 1968.

Words struck out by the Committee are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule.

Hon. Mr Seath

LITTER

ANALYSIS

Title	
1. Short Title and commencement	
2. Interpretation	
3. Act not to apply to certain places	
<i>Litter Prevention Officers</i>	
4. Appointment of litter prevention officers by public authorities	
5. Other litter prevention officers	
6. Powers and duties of litter prevention officers other than traffic officers	
7. Powers and duties of traffic officers as litter prevention officers	
<i>Powers and Duties of Authorities</i>	
8. Public authorities to provide receptacles in public places	
9. Local authority may make grant etc. for the abatement or prevention of litter	
	<i>Offences</i>
	10. Depositing litter in a public place
	11. Wilful breaking of bottles or glass in a public place
	12. Offences in respect of litter prevention officers
	13. Liability of officers of body corporate
	14. Offences punishable on summary conviction
	<i>Special Powers of Convicting Court</i>
	15. Offender may be ordered to clear area
	16. Cost of removing litter
	<i>Miscellaneous Provisions</i>
	17. Repeals and consequential amendment
	Schedule

A BILL INTITULED

An Act to make provision for the abatement of litter

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Litter Act 1968.

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty-nine.

No. 103—2

2. Interpretation—In this Act, unless the context otherwise requires,—

“Dangerous litter” means any litter which, if deposited in a public place, is likely to endanger any person or to cause physical injury or disease or infection to any person coming into contact with it; and in particular includes any bottle (whether broken or not), glass, article containing glass, sharp metal, or trap, or any substance of a toxic or poisonous nature; and includes any offensive litter that is dangerous: 5

“Depositing”, in relation to litter, includes casting, placing, throwing, or dropping litter: 10

“Litter” means any refuse, rubbish, animal remains, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other matter of a like nature: 15

“Litter prevention officer”, or “officer”, means an officer appointed in accordance with section 4 or section 5 of this Act:

“Minister” means the Minister of Internal Affairs:

“Offensive litter” means any litter that, if deposited in a public place, defaces, defiles, tends to deface or defile, or contributes to the defacement or defilement of that place, or spoils or tends to spoil the amenity of that place: 20

“Public authority” includes— 25

(a) A city council, a borough council, a county council, a town council, the National Roads Board, the Waiheke Road Board, the Auckland Regional Authority, the Christchurch-Lyttelton Road Tunnel Authority, the Auckland Harbour Bridge Authority, a harbour board, an airport authority within the meaning of section 2 of the Airport Authorities Act 1966, and an administering body within the meaning of section 2 of the Reserves and Domains Act 1953: 30

(b) In relation to any cemetery, any persons for the time being holding office as trustees of that cemetery under the Burial and Cremation Act 1964: 35

(c) All other bodies or classes of bodies which by any Act, or by the Governor-General in Council, are from time to time declared to be public authorities for the purposes of this Act: 40

“Public place” includes—

(a) Every motorway, road, street, private street, footpath, access way, service lane, court, mall, and thoroughfare: 45

5 (b) Any public reserve within the meaning of section 2 of the Reserves and Domains Act 1953 to which the public generally, notwithstanding the exercise from time to time by the body administering the reserve of its powers under sections 32, 33, 49, 61A, and 61B of that Act, has access without payment of any fee:

10 (c) Any park, garden, or other place of public recreation to which the public has access without payment of any fee:

(d) Any beach or foreshore, or the bank of any river or stream, or the margin of any lake, to which the public traditionally has access without payment of any fee:

15 (e) Any waters to which the public traditionally has access without payment of any fee for bathing or other recreational purposes:

(f) Every wharf, pier, or jetty (whether under the control of a harbour board or not) to which the public has access:

(g) Any State forest land within the meaning of the Forests Act 1949:

(h) Any airport within the meaning of section 2 of the Airport Authorities Act 1966.

25 (i) Any cemetery within the meaning of section 2 of the Burial and Cremation Act 1964:

(j) Any other place in the open air to which the public has access as of right without payment of any fee—

30 but does not include any site for the disposal of litter, or any receptacle installed in any such public place pursuant to this Act or any other Act:

“Secretary” means the Secretary for Internal Affairs:

35 “Site for the disposal of litter” means any area set apart as a site for the deposit and disposal of nightsoil or refuse, or of any other litter, by any local authority pursuant to section 38 of the Health Act 1956 or any other enactment:

40 “Traffic officer” means a traffic officer within the meaning of section 2 of the Transport Act 1962.

3. Act not to apply to certain places—Notwithstanding anything to the contrary in section 2 of this Act, nothing in this Act shall apply to—

- (a) Any part of the Government Railways; or
- (b) Any national park constituted under the National Parks Act 1952; or
- (c) Any waters within the meaning of section 2 of the Waters Pollution Act 1953 (not being waters to which the public traditionally has access without payment of any fee for bathing or other recreational purposes); or
- (d) Any wildlife sanctuary within the meaning of section 2 of the Wildlife Act 1956; or
- (e) Any land vested in the New Zealand Historic Places Trust.

Litter Prevention Officers

4. Appointment of litter prevention officers by public authorities—(1) Any public authority may from time to time appoint any suitable person (whether already employed by the authority or not) to be a litter prevention officer to exercise the duties conferred on him by this Act in any public place under the control of the authority.

(2) Every such appointment shall be on such terms as to remuneration and other conditions of employment as the appointing authority may determine.

(3) Every officer shall hold office during the pleasure of the authority appointing him and may at any time be removed from office by it, or he may at any time resign his office by notice in writing addressed to the chief executive officer of the public authority.

(4) The authority shall supply to every officer appointed by it a written warrant under the seal of the authority evidencing the appointment, and the production of that warrant shall be sufficient proof of the appointment.

(5) Every such officer shall, on the termination of his appointment, whether by removal from office or by resignation, surrender to the authority employing him his warrant of appointment and any uniform or badge of office that may have been issued to him.

5. Other litter prevention officers—(1) The Minister may from time to time, by notice in the *Gazette*, appoint the persons for the time being holding any specified class of office or appointment to be litter prevention officers in an honorary capacity for the purposes of this Act.

(2) Any officers appointed by virtue of subsection (1) of this section may be appointed to exercise their duties in respect of any particular public places or generally in respect of public places throughout New Zealand.

5 (3) Every officer appointed by virtue of subsection (1) of this section shall hold office during the pleasure of the Minister or for such specified term as the Minister thinks fit. Any such officer may at any time be removed from office by the Minister, and may at any time resign his office by notice in writing
10 addressed to the Secretary.

(4) The Secretary shall supply to every officer appointed by virtue of subsection (1) of this section a written warrant signed by the Secretary, or a person acting under his authority, evidencing the officer's appointment; and the production of
15 that warrant shall be sufficient proof of the appointment.

(5) Any officer appointed by virtue of subsection (1) of this section shall, on the expiration of the term of his appointment, or on the sooner expiration of his appointment by removal from office or resignation, surrender to the Secretary his war-
20 rant of appointment and any uniform and badge of office that may have been issued to him in respect of his appointment.

(6) The following persons shall by virtue of their office be deemed to be litter prevention officers for the purposes of this Act:

25 (a) Every member of the Police:

(b) Every traffic officer while he is acting in the exercise of his powers or the discharge of his duties in any public place where he is authorised to exercise his jurisdiction as a traffic officer:

30 (c) Every forest officer or honorary ranger appointed for the purposes of the Forests Act 1949, and any other person under the control of the Director-General of Forests, while he is acting in the exercise of his powers or the discharge of his duties on any State forest land in respect of which he is for the time being authorised to act:

35 (d) Every ranger appointed under section 5 of the Reserves and Domains Act 1953, any officer of the Department of Lands and Survey, and any person employed by the administering body of the reserve, while he is acting in the exercise of his powers or the discharge of his duties in any public reserve (being a reserve to which this Act applies) in respect of which he is for
40 the time being authorised to act:

- (e) Every harbourmaster appointed under section 7 or section 42 of the Harbours Act 1950 while acting in the exercise of his powers or the discharge of his duties in the harbour in respect of which he was appointed.

6. Powers and duties of litter prevention officers other than traffic officers—(1) Every litter prevention officer (other than a traffic officer), if for the time being in uniform or in possession of a warrant or other evidence of his authority as an officer, is authorised to enforce the provisions of this Act and may, without further authority than this section, summarily interfere to prevent the deposit or attempted deposit of litter in any public place in which he is authorised to act. 5 10

(2) Where any such officer finds a person depositing litter (whether inadvertently or otherwise) in a public place in which he is authorised to act, or has good cause to believe that a person has deposited litter (whether inadvertently or otherwise) in any such place, the officer may require him to place the litter in the nearest receptacle or, if by reason of the size or quantity of the litter or for any other reason it is not practicable for the litter to be placed in a receptacle, to remove the litter from the place. 15 20

(3) If any such officer finds a person committing an offence against section 10 or section 11 of this Act, or has good cause to believe that a person has committed such an offence, the officer may require that person to state his true name and place of residence. 25

7. Powers and duties of traffic officers as litter prevention officers—(1) Every litter prevention officer who is a traffic officer in uniform is authorised to enforce the provisions of this Act so far as they relate to dangerous litter and may, without further authority than this section, summarily interfere to prevent the deposit or attempted deposit of dangerous litter in any public place where he is authorised to exercise his jurisdiction as a traffic officer. 30

(2) Where any such officer finds a person depositing dangerous litter (whether inadvertently or otherwise) in a public place in which he is authorised to exercise his jurisdiction, or has good cause to believe that a person has deposited dangerous litter (whether inadvertently or otherwise) in any such place, the officer may require him to place the litter in the nearest receptacle or, if by reason of the size or quantity of 35 40

the litter or for any other reason it is not practicable for the litter to be placed in a receptacle, to remove the litter from the place.

5 (3) If any such officer finds a person committing an offence against section 11 or subsection (1) of section (10) of this Act, or has good cause to believe that a person has committed such an offence, the officer may require that person to state his true name and place of residence.

Powers and Duties of Authorities

10 **8. Public authorities to provide receptacles in public places**—(1) Every public authority shall at all times provide and maintain in every public place under its control or management where litter is likely to be deposited or left such
15 the temporary deposit of litter as may reasonably be necessary to ensure that the place may be kept free of litter.

(2) Every such authority shall also make appropriate provision for the emptying of the contents of its receptacles and for the removal and disposal of those contents. The work shall
20 be executed promptly, efficiently, and at regular and prescribed intervals to the satisfaction of the Medical Officer of Health appointed for the health district in which the place is situated.

(3) Nothing in this section shall affect the powers conferred
25 on the Board of Health under the Health Act 1956 in respect of any local authority within the meaning of section 2 of that Act.

9. Local authority may make grants etc. for the abatement or prevention of litter—Any local authority within the mean-
30 ing of section 2 of the Local Authorities Loans Act 1956 may, notwithstanding anything to the contrary in the enactment or instrument constituting it, from time to time—

(a) Make **(a)** grants of such amounts as it thinks fit to any
35 organisation (not established for the purpose of making a profit) whose principal objects include the abatement or prevention of litter:

(b) Spend such sums of money as it thinks fit on any scheme or campaign for the abatement or prevention of litter.

Offences

10. Depositing litter in a public place—(1) Every person commits an offence, and is liable, in the case of an individual, to imprisonment for a term not exceeding one month or to a fine not exceeding two hundred dollars, or to both, or, in the case of a body corporate, to a fine not exceeding one thousand dollars, who without (**lawful**) reasonable excuse— 5

(a) Deposits any dangerous litter in or on any public place; or

(b) Having deposited any dangerous litter in or on any public place (whether inadvertently or otherwise), leaves the litter there. 10

(2) Every person commits an offence, and is liable, in the case of an individual, to a fine not exceeding one hundred dollars or, in the case of a body corporate, to a fine not exceeding five hundred dollars, who without (**lawful**) reasonable excuse— 15

(a) Deposits any offensive litter in or on any public place; or

(b) Having deposited any offensive litter in or on any public place (whether inadvertently or otherwise), leaves the litter there. 20

(3) Where any person is charged with having committed an offence against subsection (1) of this section and the Court decides that the litter which is the subject of the charge is offensive litter and not dangerous litter, that person may be convicted of an offence against subsection (2) of this section. 25

(4) Where any person commences the act of depositing litter in any public place and the litter comes to rest in a place other than a public place, that person may nevertheless be convicted of an offence against this section. 30

11. Wilful breaking of bottles or glass in a public place—Every person commits an offence, and is liable to imprisonment for a term not exceeding one month or to a fine not exceeding two hundred dollars, or to both, who wilfully breaks any bottle, or any glass, or any article made of glass, in or on any public place without lawful authority or without the express consent of the public authority having the control or management of the place. 35

12. Offences in respect of litter prevention officers—Every person commits an offence, and is liable to a fine not exceeding two hundred dollars, who— 40

- (a) Wilfully obstructs a litter prevention officer while acting in the execution of any of the powers or duties conferred on him by this Act; or
- 5 (b) Without lawful excuse, fails within a reasonable time to comply with the requirement of an officer exercising the power conferred on him by subsection (2) of section 6 of this Act or subsection (2) of section 7 of this Act; or
- 10 (c) After being required to disclose his true name and place of residence by an officer acting pursuant to the power conferred on him by subsection (3) of section 6 of this Act or subsection (3) of section 7 of this Act—
- 15 (i) Refuses to disclose his true name or place of residence; or
- (ii) Gives a false name or place of residence; or
- (iii) Gives such a general description of his place of residence as is illusory for the purpose of discovery; or
- 20 (d) Personates or falsely pretends to be an officer:
- (e) Offers violence to, or assaults, threatens, or intimidates, or uses threatening language, or behaves in a threatening manner to any officer while he is acting in the exercise of his powers or the discharge of his duties under this Act:
- 25 (f) Gives or agrees to give or offers to an officer any gift or consideration as an inducement or reward for any act done or to be done, or for any forbearance observed or to be observed, or for any favour shown or to be shown by him, or who, being such an officer, accepts or agrees to accept or solicits any such gift or consideration as aforesaid.
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13. **Liability of officers of body corporate**—If a body corporate commits an offence against section 10 of this Act, every

35 director, manager, secretary, or other similar officer of the body corporate, and every person purporting to act in any such capacity, shall also be guilty of that offence if the act or omission constituting the offence occurred with his knowledge and consent.

40 14. **Offences punishable on summary conviction**—Every offence against this Act shall be punishable on summary conviction.

Special Powers of Convicting Court

15. Offender may be ordered to clear area—(1) Without limiting the powers conferred on litter prevention officers by this Act, where any person is convicted of an offence against section 10 of this Act the Court may, instead of or in addition to imposing a penalty, order the offender, under the supervision and to the satisfaction of a person nominated by the Court, to clear up and remove from the area the deposited litter within such period and to such place as may be specified in the order; and on the making of any such order the Court shall further order that, if the offender fails to comply with the order, he be liable, in addition to any penalty imposed under the said section 10, to a fine not exceeding two hundred dollars.

(2) Where the order is complied with to the satisfaction of the person nominated by the Court that person shall give or send to the offender a statement in writing to that effect.

(3) Where an offender fails to comply with any such order, any Magistrate, on the application of the person nominated by the Court to supervise the clearing and removal of the litter, may issue a summons requiring the offender to show cause why the fine imposed by the order should not be enforced.

(4) On the hearing of the summons to show cause, the Court may make such order as it thinks fit.

Cf. Litter Act 1964, s. 3A (Victoria)

16. Cost of removing litter—Where a Court convicts a person of an offence against section 10 of this Act, it may, if it thinks fit, in addition to imposing a penalty, order the offender to pay by way of compensation to the public authority having the control or management of the public place where the offence was committed such sum as it considers reasonable to cover the cost of the removal of the litter; and the amount so awarded shall be deemed to be a judgment debt due to the authority from the offender and may be enforced in any manner in which a judgment or order of the Court for the payment of a civil debt may be enforced.

Cf. Litter Act 1964, s. 5 (Victoria)

Miscellaneous Provisions

17. Repeals and consequential amendment—(1) The enactments specified in the Schedule to this Act are hereby repealed.

5 (2) Section 84 of the Reserves and Domains Act 1953 is hereby amended by inserting in paragraph (m) of subsection (1), after the words “on any public reserve”, the words “(being a public reserve which is not a public place within the meaning of section 2 of the Litter Act 1968)”.

SCHEDULE

Section 16

ENACTMENTS REPEALED

- 1927, No. 35—The Police Offences Act 1927: Paragraph (a) of section 3 and section 3A. (Reprinted, 1965, Vol. 3, p. 1488.)
- 1928, No. 21—The Public Works Act 1928: Section 172. (1957 Reprint, Vol. 12, p. 475.)
- 1952, No. 58—The Public Works Amendment Act 1952: Section 21. (1957 Reprint, Vol. 12, pp. 641 and 806.)
- 1955, No. 85—The Police Offences Amendment Act 1955: Section 3. (Reprinted, 1965, Vol. 3, p. 1542.)
- 1967, No. 154—The Police Offences Amendment Act 1967: So much of the First Schedule as relates to section 3A of the Police Offences Act 1927.