



To: - The Cathaoirleach & Each Member of Kilkenny County Council

Re: - County Kilkenny Waste Management Bye-laws, 2018

A Chara,

Kilkenny County Council together with the 3 Waste Regions propose introducing a standardised set of waste Bye-laws for the Segregation, Storage and Presentation of Household and Commercial Waste throughout the Country. These Bye-laws are designed to

- (a) Encourage the correct segregation of waste at source
- (b) Cut out the increasing problem of the illegal waste collector
- (c) Help tackle the incidents of illegal dumping and
- (d) Reduce the need to take court action by having a fixed penalty option.

Draft Bye-laws were presented to the SPC 5 -Environmental Protection, Water Services & Energy on the 23rd of May and again on the 19th September 2018. At the latter meeting the Members broadly welcomed the draft Bye-laws and it was agreed to proceed to initiate the public consultation prior to going before the Elected Members for a decision on adoption at the full Council Meeting in December 2018. It was also agreed that a copy of the draft Bye-laws and public notice would also be issued to each Elected Member for their consideration.

The power to make this Bye-law is pursuant to Section 35(1) of the Waste Management Act 1996 as amended and Section 199(1) of the Local Government Act 2001, hereafter LGA, and in accordance with Part 19 of the LGA 2001.

The power to make a bye-law is a reserved function of the Local Authority, following the consideration of submissions.

In accordance with the requirements of the LGA, the intention to make a Bye-law was advertised in the Kilkenny People Newspaper edition dated 28th September 2018. The draft Bye-laws were placed on public display in the main offices of Kilkenny County Council uploaded, on Consult.kilkenny.ie and sent to the Garda Chief Superintendent and the Ministers of both the Dept. of Communication, Climate Action and Environment and the Dept. of Housing, Planning and Local Government.

The Bye-laws were placed on public display on the 28th September 2018 for a period of 6 weeks to the 9th November 2018. Closing date for the receipt of submissions was the 23rd November. No written or electronic submissions were received during the public consultation period.



A period of 2 months must elapse following the advertising before the Bye-laws can be confirmed. Once approved by the elected members the Bye-laws must be commenced within 30 days of that decision by publication of a notice in Iris Oifigiúil.

The Fines Act 2010 set the maximum penalty at €2,500 but a local authority is given discretion to set a lesser penalty. This penalty can relate to either non-compliance with all parts of a Bye-law or to particular elements of it. When such a lesser penalty is to be set, then the actual Bye-law is required to indicate what it comprises. The suggested maximum penalty that will apply is €2, 500.

The continued contravention of a Bye-law by a person after his or her conviction can result in a daily fine. The maximum fine is to be no more than €500 - but a local authority is allowed to set a smaller penalty if it so wishes. Should a lesser penalty be imposed, the Bye-law must state the amount. The suggested amount is €500.

Where a local authority has elected to deploy the option of a fixed payment notice to address Bye-law contravention, the LGA 2001 requires that this must be indicated in a Bye-law. The amount of the fixed payment must be specified, which must be no more than €75. The Bye-law is also required to state the period within which the notice must be paid to avoid prosecution. The suggested fixed penalty is €75 with 21 days to pay.

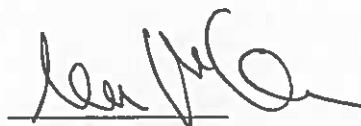
In accordance with the requirement of the LGA, the scale of fines and penalties was outlined in the public advertisement.

It is intended in the New Year that the Environment Section will roll out an extensive Communication Plan to inform the public of the requirements and implications of the new Bye-laws. This will include the circulation of information flyers to households and commercial enterprises, newspaper notice, media broadcasts and announcements, a social media awareness campaign and so on.

Recommendation

I recommend that the County Kilkenny Waste Management Bye-laws, 2018 are adopted by the Elected Members.

The Bye-laws will commence on the 15th January 2019.



*Sean McKeown,
Director of Services.
11th December 2018.*