

# ANTI-SOCIAL BEHAVIOUR ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 6: the Environment**

#### **Penalty Notices for graffiti and fly-posting**

#### ***Section 43: Penalty notices for graffiti or fly-posting***

105. *Subsection (1)* sets out the power for the local authority official to issue a penalty for the relevant offence (defined at section 44). *Subsection(2)* excludes from the scope of such offences capable of being dealt with by means of a fixed penalty notice any that is racially or religiously targeted or motivated. *Subsection (3)* restricts the possibility of being issued with a fixed penalty notice in lieu of prosecution for an offence under s.224(3) Town and Country Planning Act 1990 to the person personally affixing or placing the unlawful advertisement in question. *Subsection (4)(a)* provides that offenders have 14 days in which to pay the penalty, after which prosecution for the offence may be initiated. *Subsection (4)(b)* sets out that no proceedings may be brought where payment of the fixed penalty has been made within the 14 day period. *Subsection (5)* provides that in issuing a fixed penalty a local authority officer must provide a written statement setting out the particulars of the offence. *Subsection (6)(a), (b) and (c)* sets out that the notice setting out the particulars of the offence must state that legal proceedings will not be initiated until after 14 days, the amount of the fixed penalty and details of where and to whom the penalty should be paid.
106. *Subsection (7)* provides that payment of a penalty may be made by pre-paying and posting a letter containing the full amount of the penalty (in cash or otherwise) to the person named on the notice. *Subsection (8)* provides that where a letter is sent containing payment of the penalty, that payment is deemed as having been made at the time the letter would ordinarily be expected to be delivered. *Subsection (9)* provides that the penalty notice shall be in such form as the “appropriate person” (i.e. the Secretary of State, in England, or the National Assembly for Wales, in Wales) shall prescribe. *Subsection (10)* provides that the penalty for these offences is £50. *Subsection (11)* provides that the appropriate person may subsequently change the amount of the fixed penalty by means of an order (i.e. a statutory instrument).