



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 4

GRAFFITI AND OTHER DEFACEMENT

Graffiti and fly-posting

28 Fixed penalty notices: amount of fixed penalty

- (1) In section 43 of the Anti-social Behaviour Act 2003 (c. 38) (penalty notices for graffiti and fly-posting) omit subsections (10) and (11).
- (2) After that section insert—

“43A Amount of penalty

- (1) The amount of a penalty payable in pursuance of a notice under section 43(1)
—
 - (a) is the amount specified by a relevant local authority in relation to its area (whether or not the penalty is payable to that or another authority), or
 - (b) if no amount is so specified, is £75.
- (2) In subsection (1)(a), “relevant local authority” means—
 - (a) a district council in England;
 - (b) a county council in England for an area for which there is no district council;
 - (c) a London borough council;
 - (d) the Common Council of the City of London;
 - (e) the Council of the Isles of Scilly;

- (f) a county or county borough council in Wales.
- (3) The local authority to which a penalty is payable in pursuance of a notice under section 43(1) may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred under subsections (1)(a) and (3).
- (5) Regulations under subsection (4) may (in particular)—
 - (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, a local authority can make provision under subsection (3).
- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).”

29 Fixed penalty notices: power to require name and address

After section 43A of the Anti-social Behaviour Act 2003 (c. 38) (as inserted by section 28 above) insert—

“43B Penalty notices: power to require name and address

- (1) If an authorised officer of a local authority proposes to give a person a notice under section 43(1), the officer may require the person to give him his name and address.
- (2) A person commits an offence if—
 - (a) he fails to give his name and address when required to do so under subsection (1), or
 - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

30 Fixed penalty notices: authorised officers

- (1) In section 47 of the Anti-social Behaviour Act 2003 (c. 38) (interpretation etc), in subsection (1), for the definition of “authorised officer” substitute—
 - ““authorised officer”, in relation to a local authority, means—
 - (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under section 43(1);
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.”
- (2) In that section, at the end insert—

“(4) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under section 43(1).”

31 Extension of graffiti removal notices to fly-posting

- (1) Section 48 of the Anti-social Behaviour Act 2003 (c. 38) (graffiti removal notices) is amended as follows.
- (2) In subsection (1)(a) (section to apply where a relevant surface has been defaced by graffiti), after “graffiti” insert “or any poster or flyer the display of which contravenes regulations under section 220 of the Town and Country Planning Act 1990”.

32 Sale of aerosol paint to children

In the Anti-social Behaviour Act 2003 (c. 38), after section 54 (sale of aerosol paint to children) insert—

“54A Enforcement of section 54

- (1) It is the duty of every local weights and measures authority—
 - (a) to consider, at least once in every period of twelve months, the extent to which it is appropriate for the authority to carry out in their area a programme of enforcement action in relation to section 54; and
 - (b) to the extent that they consider it appropriate to do so, carry out such a programme.
- (2) For the purposes of subsection (1), a programme of enforcement action in relation to section 54 is a programme involving all or any of the following—
 - (a) the bringing of prosecutions in respect of offences under that section;
 - (b) the investigation of complaints in respect of alleged offences under that section;
 - (c) the taking of other measures intended to reduce the incidence of offences under that section.”

Advertisements

33 Unlawful display of advertisements: defences

- (1) Section 224 of the Town and Country Planning Act 1990 (c. 8) (enforcement of control as to advertisements) is amended as follows.
- (2) In subsection (5) (person not guilty of offence of displaying advertisement in contravention of regulations if he proves it was displayed without his knowledge or consent), for “that it was displayed without his knowledge or consent” substitute “either of the matters specified in subsection (6)”.
- (3) After that subsection insert—
 - “(6) The matters are that—
 - (a) the advertisement was displayed without his knowledge; or

(b) he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal.”

(4) This section does not have effect in relation to an offence committed, or alleged to have been committed, before the commencement of this section.

34 Removal of placards and posters

(1) Section 225 of the Town and Country Planning Act 1990 (power to remove or obliterate placards and posters) is amended as follows.

(2) In subsection (3)(b) after “notice” insert “and recover from him the costs they may reasonably incur in doing so”.

(3) After subsection (5) insert—

“(6) Where—

(a) a local planning authority serve a notice on a person under subsection (3) in relation to a placard or poster, and

(b) the person fails to remove or obliterate it within the period specified in the notice,

the authority may recover from that person the costs they may reasonably incur in exercising their power under subsection (1).”

(4) After subsection (6) (as inserted by subsection (3) above) insert—

“(7) This subsection applies in relation to a placard or poster where—

(a) the placard or poster does not identify the person who displayed it or caused it to be displayed, or

(b) it does do so, but subsection (3) does not apply by reason of subsection (4), and

the placard or poster publicises the goods, services or concerns of an identifiable person.

(8) Where subsection (7) applies, subsections (3) to (6) have effect as if the reference in subsection (3) to the person who displayed the placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised.”

(5) After subsection (8) (as inserted by subsection (4) above) insert—

“(9) Where any damage is caused to land or chattels in the exercise of the power under subsection (1) in relation to a placard or poster, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power.

(10) Subsection (9) does not permit the recovery of compensation by the person who displayed the placard or poster or caused it to be displayed.

(11) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4.”

(6) In section 324 of that Act (rights of entry), omit subsection (3)(a).