



London Local Authorities Act 2007

2007 CHAPTER ii

PART 2

PUBLIC HEALTH AND THE ENVIRONMENT

Advertising

5 Portable advertisements, etc.

- (1) No portable advertisement may be displayed within a designated area, except in accordance with subsection (2) below.
- (2) The display of an advertisement—
 - (a) for which express consent has been given; or
 - (b) for which deemed consent has been given,is in accordance with this subsection.(3)
- (3) Subsection (1) above is without prejudice to any prohibition or restriction on the display of a portable advertisement contained in advertising regulations or any other enactment or rule of law relating to the display of advertisements.
- (4) Any person who—
 - (a) displays a portable advertisement in contravention of subsection (1) above; or
 - (b) causes or permits any person so to do,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) Without prejudice to the generality of subsection (4) above, a person shall be deemed to display a portable advertisement for the purposes of that subsection if the advertisement gives publicity to his goods, trade, business or other concerns.
- (6) A person shall not be guilty of an offence under subsection (4) above by reason only of his goods, trade, business or other concerns being given publicity by the portable advertisement if he proves any of the matters specified in subsection (7) below.

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- (7) The matters are—
- (a) that the portable advertisement was displayed without his knowledge; or
 - (b) that he took all reasonable steps and exercised all due diligence to prevent the display; or
 - (c) that the advertisement was displayed on an item used wholly or mainly for purposes other than advertising.
- (8) The reference in subsection (4) above to a person who displays a portable advertisement in contravention of subsection (1) above shall be deemed to include a reference to a person who displays a portable advertisement on or from land within 7 metres of any street or way designated under subsection (1)(c) of section 6 (advertisements: designation of areas) of this Act and who is not—
- (a) the owner of that land;
 - (b) the person liable to be assessed to the uniform business rate in respect of that land; or
 - (c) on that land with the consent in writing of either of the persons mentioned in paragraphs (a) and (b) above.
- (9) In any proceedings for an offence under this section, it shall be presumed, unless the contrary is shown, that the area in which the alleged offence took place was designated in accordance with the said section 6.
- (10) In this section—
- “advertising regulations” means regulations made under section 220 of the Planning Act (regulations controlling display of advertisements);
- “designated area” means an area designated in accordance with the said section 6; the
- “display” of an advertisement means (subject to subsection (11) below) the display of the advertisement in the course of a business by means of an individual or individuals holding or carrying it or otherwise having control of it in person at the place where it is located;
- “express consent” and “deemed consent” mean express consent and deemed consent for the purposes of any advertising regulations;
- “portable advertisement” means any thing which is capable of being held or carried and which is an advertisement as defined in section 336(1) of the Planning Act but as if for “wholly or partly” there were substituted “wholly or mainly”.
- (11) A portable advertisement shall, for the purposes of this section, be deemed to be displayed as a portable advertisement notwithstanding that it is placed upon, leant against or attached to apparatus, street furniture or any other structure or object situated—
- (a) in a designated area; or
 - (b) on any land within 7 metres of any street or way designated under subsection (1)(c) of the said section 6.

6 Advertisements: designation of areas

- (1) A borough council may designate, in accordance with the following provisions of this section, areas comprising any of the following places or any part of such places in the borough as designated areas to which this section applies—

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- (a) a public off-street car park;
 - (b) a recreation ground, garden, park, pleasure ground or open place under the management or control of a borough council;
 - (c) a street or way to which the public commonly have access, whether or not as of right.
- (2) The council shall exercise their powers under this section only in the interests of amenity and public safety, taking account of any material factors, and in particular—
- (a) in the case of amenity—
 - (i) the general characteristics of the locality, including the presence of any features of historic, architectural, cultural or similar interest;
 - (ii) the desirability of preserving or enhancing the character or appearance of a conservation area, where appropriate,disregarding, if they think fit, any advertisement being displayed there;
 - (b) in the case of public safety—
 - (i) the safety of any person who may use any road, railway, dock, harbour or aerodrome;
 - (ii) whether any display of advertisements is likely to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air.
- (3) Before designating any area under this section, the council shall publish, or cause to be published, in at least one newspaper circulating in the locality, and on the same or a subsequent date in the London Gazette, a notice that such a proposal has been made, naming a place or places in the locality where a map or maps defining the area concerned may be inspected at all reasonable hours.
- (4) Any notice under subsection (3) above shall state that any objection to the proposal may be made to the proper officer of the borough council in writing within such period (not being less than 21 days from the date when the notice was published) as is specified in the notice.
- (5) The council shall not designate an area under this section until after the expiry of the specified period.
- (6) In determining whether to designate an area under this section, the council—
- (a) shall take into account any objections made in accordance with subsection (4) above;
 - (b) may modify the proposal if—
 - (i) they have notified, in writing, any person who has made an objection or representation to them of their intention and their reasons for it and has given them a reasonable opportunity to respond; and
 - (ii) the intended modification does not extend the area of land specified in the proposal.
- (7) Where the council designates an area under this section, they shall notify any person who has made an objection in accordance with subsection (4) above.
- (8) Notice of the designation of a particular area shall be published by the council in at least one newspaper circulating in the locality and on the same or a subsequent date in the London Gazette, and such notice shall—
- (a) contain a full statement of the effect of the designation;

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- (b) name a place or places in the locality where a copy of the designation and of a map defining the area concerned may be seen at all reasonable hours; and
 - (c) specify a date when the designation shall come into force, being at least 14 and not more than 28 days after the publication of the notice in the London Gazette.
- (9) A designation shall come into force on the date specified in the notice given under subsection (8) above.
- (10) In this section, “conservation area” means a conservation area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (designation of conservation areas).

7 **Unauthorised advertisement hoardings**

- (1) Section 11 (unauthorised advertisement hoardings, etc.) of the [London Local Authorities Act 1995 \(c. x\)](#) is amended as follows.
- (2) In subsection (1)—
- (a) at the beginning, the words “Subject to subsection (1A) below” are inserted;
 - (b) the words “or which was erected before 1 April 1990” are omitted.
- (3) After subsection (1), the following subsection is inserted—
- “(1A) This section does not apply to a hoarding or other structure which was erected before 1 April 1990, unless—
- (a) a discontinuance notice has been served in relation to it under regulations made under section 220 of the Act of 1990; and
 - (b) either—
 - (i) the time for making an appeal in relation to the discontinuance notice under section 78 of the Act of 1990 (right to appeal against planning decisions and failure to take such decisions) has expired with no such appeal having been made; or
 - (ii) an appeal in relation to the discontinuance notice under the said section 78 has been made, and the appeal has been discontinued or dismissed.”.

8 **Automatic minimum fine on third conviction for fly posting or shroud advertisement offence**

- (1) Where a person is convicted of a fly posting or shroud advertisement offence committed in Greater London, the court by which he is convicted shall, if the circumstances specified in subsection (4) below are present, impose a fine, the level of which shall be a minimum of level 4 on the standard scale and a maximum of £20,000.
- (2) Subsection (1) above shall not apply where the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender; and
 - (b) would make it unjust to do so in all the circumstances.
- (3) Section 224(3) of the Planning Act, insofar as it makes provision for the punishment of offenders, shall not apply where subsection (1) above applies.

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- (4) The circumstances mentioned in subsection (1) above are that, during the five years ending with the date of the conviction, the person has been convicted of, in total, no fewer than three fly posting or shroud advertisement offences, providing that the conditions in subsections (5), (6) and (7) below are satisfied.
- (5) The first condition is that the first of the three convictions was in respect of an offence which was committed after the date on which this section came into force.
- (6) The second condition is that the second of the three convictions was in respect of an offence which was committed after the date of the first conviction.
- (7) The third condition is that the third of the three convictions was in respect of an offence which was committed after the date of the second conviction.
- (8) The Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) shall apply in Greater London as if in section 112(1)(a) (appeals where previous convictions set aside), after “or 111 above” the words “or under section 8(1) of the [London Local Authorities Act 2007 \(c. ii\)](#) (automatic minimum fine on third conviction for fly posting or shroud advertisement offence)” were inserted.

9 Certificates of conviction for purposes of section 8

- (1) Where—
 - (a) on any date after section 8 (automatic minimum fine on third conviction for fly posting or shroud advertisement offence) of this Act came into force a person is convicted of a fly posting or shroud advertisement offence; and
 - (b) the court by or before which he is so convicted states in open court that he has been convicted of such an offence on that date; and
 - (c) that court subsequently certifies that fact,the certificate shall be evidence, for the purposes of the said section 8, that he was convicted of such an offence on that date.
- (2) Where—
 - (a) on any date after the said section 8 came into force a person is convicted of a fly posting or shroud advertisement offence; and
 - (b) the court by or before which he is so convicted states in open court that the offence was committed on a particular day or over, or at some time during, a particular period; and
 - (c) that court subsequently certifies that fact,the certificate shall be evidence, for the purposes of the said section 8, that the offence was committed on that day or over, or at some time during, that period.

10 Determination of day when offence committed

Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of section 8 (automatic minimum fine on third conviction for fly posting or shroud advertisement offence) of this Act to have been committed on the last of those days.

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11 Advertising: measures to be taken on surfaces

- (1) If a borough council has reason to believe that there is a persistent problem with the display of unauthorised advertisements on a relevant surface, the council may serve a notice under subsection (3) below on the owner or occupier of the land in or on which the relevant surface is situated.
- (2) If after reasonable enquiry the council have been unable to ascertain the name and address of the owner or occupier, they may affix a notice to the relevant surface.
- (3) A notice under this subsection is a notice requiring, within such reasonable time (not being less than 28 days) as may be specified in the notice, the owner or occupier of the land in or on which the relevant surface is situated to carry out such reasonable measures as may be required by the council to prevent or reduce the frequency of the display of unauthorised advertisements on the relevant surface.
- (4) The sections of the Public Health Act 1936 (c. 49) mentioned in Schedule 1 to this Act shall have effect as if references therein to that Act included references to this section.
- (5) This section shall have effect as if it were an Act or order to which section 42 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (which makes provision for certain local Acts and orders to be subject to the planning enactments) applies.
- (6) The period within which an owner or occupier must comply with the requirements of a notice under subsection (3) above may be extended with the agreement of the council.
- (7) No council shall exercise their powers under this section until a code of practice dealing with the exercise of those powers has been published by a joint committee, and a council shall have regard to the code of practice when exercising those powers.
- (8) In preparing a code of practice to be published under subsection (7) above, the joint committee shall consult—
 - (a) persons appearing to them to be representative of interests likely to be substantially affected by the exercise of powers under this section; and
 - (b) such other persons as they consider appropriate.
- (9) A council may not recover their expenses under section 290(6) of the Public Health Act 1936 (provisions as to appeals against, and the enforcement of, notices requiring execution of works) in respect of a relevant surface, if the relevant surface—
 - (a) forms part of a flat or a dwellinghouse; or
 - (b) is within the curtilage or forms part of the boundary of the curtilage of a dwellinghouse.
- (10) In this section and section 12 (railway undertakers: provision for purposes of section 11) of this Act—

“joint committee” means any joint committee established under section 101(5) of the Local Government Act 1972 (c. 70) and comprising at least one member from each borough council;

“premises” means building, wall, fence or other structure or erection;

“relevant surface” means the surface of any premises, apparatus or plant;

“unauthorised advertisements” means advertisements in respect of which advertising offences are committed.

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12 Railway undertakers: provision for purposes of section 11

- (1) Subsections (2) to (4) below apply where a borough council serve a notice under subsection (3) of section 11 (advertising: measures to be taken on surfaces) of this Act (a “section 11 notice”) requiring a protected party to carry out measures in respect of the display of unauthorised advertisements on a relevant surface situated on its operational land.
- (2) The protected party may, within a period of 28 days beginning with the day on which the notice is served, serve a counter-notice on the council specifying alternative measures which will in their reasonable opinion have the effect of preventing or reducing the frequency of the display of unauthorised advertisements on the relevant surface to the same or greater extent than the measures specified in the notice.
- (3) Where a counter-notice is served under subsection (2) above, the section 11 notice shall be deemed—
 - (a) to require the alternative measures specified in the counter-notice to be carried out (instead of the measures actually required by the notice); and
 - (b) to have been served on the date on which the counter-notice was served.
- (4) The period within which a protected party must carry out the measures specified in a counter-notice served under subsection (2) above may be extended by agreement of the council.
- (5) Subsections (6) to (9) below apply where a council propose to exercise a relevant power in respect of any operational land of a protected party.
- (6) Before exercising the relevant power the council shall serve not less than 28 days' notice in writing of their intention so to do on the protected party specifying the relevant surface concerned and its location.
- (7) The protected party on whom a notice under subsection (6) above is served may within the period of 28 days beginning with the day on which the notice is served serve a counter-notice on the council—
 - (a) specifying conditions subject to which the relevant power is to be exercised, being reasonable conditions which are necessary or expedient in the interests of safety or the efficient and economic operation of the protected party's undertaking; or
 - (b) requiring the council to refrain from exercising the relevant power, if the protected party has reasonable grounds to believe, for reasons connected with the operation of its undertaking, that the relevant power cannot be exercised under the circumstances in question—
 - (i) without risk to the safety of any person; or
 - (ii) without unreasonable risk to the efficient and economic operation of the protected party's undertaking.
- (8) Where a counter-notice is served under subsection (7)(a) above the relevant power may only be exercised subject to and in accordance with the conditions in the counter-notice.
- (9) Where a counter-notice is served under subsection (7)(b) above the relevant power may not be exercised.
- (10) In this section—

“operational land” has the same meaning as in the Planning Act;

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“protected party” means—

- (a) Network Rail Infrastructure Limited; and
- (b) Transport for London,

and their subsidiaries (within the meaning given by section 1159 of the Companies Act 2006 (c. 46)), servants, agents and contractors;

“relevant power” means a power to enter land conferred by section 287 (power to enter premises) of the Public Health Act 1936 (c. 49) as applied by subsection (4) of the said section 11.