



# London Local Authorities Act 2007

## 2007 CHAPTER ii

### PART 2

#### PUBLIC HEALTH AND THE ENVIRONMENT

##### *Interpretation*

#### **4 Interpretation of Part 2**

In this Part of this Act—

“the 1978 Act” means the Refuse Disposal (Amenity) Act 1978 (c. 3);

“the 1990 Act” means the Environmental Protection Act 1990 (c. 43);

“an advertising offence” means an offence—

- (a) under section 132 of the Highways Act 1980 (c. 66) (unauthorised marks on highways);
- (b) under section 224(3) of the Planning Act (enforcement of control as to advertisements);
- (c) under subsection (4) of section 5 (portable advertisements, etc.) of this Act; or
- (d) of aiding, abetting, counselling or procuring the commission of an offence mentioned in paragraphs (a) to (c) above,

committed after the day on which section 13 (advertising: seizure) of this Act comes into effect;

“fly posting offence” means an offence—

- (a) under section 224(3) of the Planning Act;
- (b) committed in Greater London by a person who is deemed to display an advertisement for the purposes of that subsection by virtue of section 224(4)(b) of the Planning Act; and
- (c) which relates to an advertisement affixed to any surface without the authorisation of the owner of that surface;

“the Planning Act” means the Town and Country Planning Act 1990 (c. 8);

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“the Police Commissioner” means the Commissioner of Police of the Metropolis or, in the City of London, the Commissioner of Police for the City of London;

“relevant object” means—

- (a) any advertisement (whether displayed or not);
- (b) any vehicle (including its fuel); or
- (c) any equipment or materials which may be used for the purpose of fixing advertisements to surfaces or placing advertisements on surfaces;

“shroud advertisement” means an advertisement—

- (a) which is made of a flexible material;
- (b) which is not affixed to any hoarding or similar structure used, or designed or adapted for use, for the display of advertisements; and
- (c) which is attached to a building or to scaffolding;

“shroud advertisement offence” means an offence—

- (a) under section 224(3) of the Planning Act;
- (b) committed in Greater London by a person who is deemed to display an advertisement for the purposes of that subsection by virtue of section 224(3)(b) of the Planning Act; and
- (c) which is committed in respect of the display of a shroud advertisement.

### *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.
- (7) The matters are—

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- (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—
- (a) a public off-street car park;

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- (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;
  - (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

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- (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.
- (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,

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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.

## **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

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- 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.

## **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

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- 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;

“protected party” means—

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



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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.

*Advertising: seizure and forfeiture*

### **13 Advertising: seizure**

- (1) If an authorised officer or a constable has reasonable grounds for suspecting that a person has committed an advertising offence in Greater London and the conditions of subsection (2) below apply, the authorised officer or constable may seize any relevant object if the relevant object is in the possession of or under the control of that person at the time of the alleged offence.
- (2) The conditions are that the relevant object—
  - (a) may be required to be used in evidence in any proceedings in respect of the suspected offence; or
  - (b) may be the subject of forfeiture under section 16 (forfeiture of seized items) of this Act.
- (3) An authorised officer shall produce his authority if required to do so by the person having possession or control of any relevant object seized in pursuance of the powers in subsection (1) above.
- (4) An authorised officer or a constable shall, forthwith after seizing any relevant object under subsection (1) above, give to the person from whom the object was seized a certificate containing the following information—
  - (a) the name and address of the person who the authorised officer or constable suspects has committed the suspected offence;
  - (b) if different from the name and address of the person mentioned in paragraph (a) above, the name and address of the owner of the relevant object;
  - (c) the type of object seized (including, in the case of a vehicle, its make and registration mark); and
  - (d) information about subsection (2) of the said section 16.
- (5) If an authorised officer or constable—
  - (a) is unable, after reasonable inquiry of the person who he suspects has committed the suspected offence, to ascertain the name or address of—
    - (i) that person; or
    - (ii) the owner of the relevant object; or
  - (b) has reasonable cause to suspect that a name or address provided to him is incorrect,he need not comply with paragraph (a) or (b), as the case may be, of subsection (4) above.
- (6) The owner of a vehicle for the purposes of this section, shall be taken to be the person by whom the vehicle is kept.

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- (7) In determining, for the purposes of this section, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).

#### **14 Return and disposal of seized items**

- (1) The following provisions of this section shall have effect where any relevant object is seized under subsection (1) of section 13 (advertising: seizure) of this Act and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the relevant object is seized.
- (2) Subject to subsections (3) to (6) below, following the conclusion of the proceedings the relevant object shall be returned to the person from whom it was seized unless—
- (a) the court orders it to be forfeited under section 16 (forfeiture of seized items) of this Act; or
  - (b) any award of costs to the council by the court, which may include removal, return and storage costs, have not been paid within 28 days of the making of the order.
- (3) If—
- (a) at the end of the period of 56 days beginning with the date of seizure—
    - (i) no proceedings have been instituted; or
    - (ii) any proceedings instituted within that period have been discontinued;
 or
  - (b) at any time after the end of that period any such proceedings are discontinued, the relevant object shall, at the appropriate time, be returned to the person from whom it was seized unless it has not proved possible, after diligent enquiry, to identify that person and ascertain his address.
- (4) In subsection (3) above, “the appropriate time” means—
- (a) in the case of paragraph (a), the end of the period of 56 days mentioned in that paragraph;
  - (b) in the case of paragraph (b), the time when proceedings are discontinued.
- (5) Where the relevant object is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address or because the person from whom it was seized or the owner has disclaimed or refused to accept it—
- (a) a magistrates' court may make an order as to the manner in which it should be dealt with (in the case where proceedings for an offence under this section have been commenced in relation to the article or thing); or
  - (b) the council or the Police Commissioner may make a complaint to the magistrates' court for a disposal order under section 15 (disposal orders) of this Act (whether or not such proceedings have been commenced).
- (6) Where after 28 days any costs awarded by the court to the council have not been paid to the council in full—
- (a) the relevant object may be disposed of in any way the council thinks fit; and
  - (b) any sum obtained by the council in excess of the costs awarded by the court shall be returned to the person to whom the relevant object belongs.

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- (7) When any relevant object is disposed of by the council under subsection (6) above the council shall have a duty to secure the best possible price which can reasonably be obtained for it.

## **15 Disposal orders**

- (1) This section applies in respect of a complaint made by a borough council or the Police Commissioner for a disposal order in respect of a relevant object under subsection (5) of section 14 (return and disposal of seized items) of this Act.
- (2) In the case of a relevant object which the council or the Police Commissioner has attempted to return to the person who the council believes is the person from whom it was seized or is its owner, and that person disclaimed or refused to accept it, a copy of the complaint shall be served on that person.
- (3) In respect of a complaint to which this section applies, a magistrates' court may, if it is satisfied that the council or the Police Commissioner has made reasonable efforts to identify the person from whom the relevant object was seized or its owner, as the case may be, or has made reasonable efforts to return the relevant object it may make an order authorising the complainant council or the Police Commissioner—
- (a) to dispose of the relevant object in question; and
  - (b) after payment out of any proceeds arising from the disposal of the expenses incurred in the seizure, storage and disposal, to retain the balance, if any.
- (4) In the case where a copy of a complaint has been served under subsection (2) above, if the relevant object in question is not of sufficient value to defray the expenses of seizing and storing it, the magistrates' court may order that the recipient of the copy of the complaint pay the expenses, or the balance of the expenses, reasonably incurred by the council or the Police Commissioner in seizing and storing it, if it is satisfied that the recipient was the owner of the relevant object in question or was the person from whom it was seized, as the case may be.
- (5) For the purposes of this section, “owner” in respect of a vehicle, has the same meaning as it has for the purposes of section 13 (advertising: seizure) of this Act.

## **16 Forfeiture of seized items**

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an advertising offence may order any relevant object which the court is satisfied relates to the offence to be forfeited and dealt with in such a manner as the court may order.
- (2) The court shall not order a relevant object to be forfeited under subsection (1) above where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to the owner or person interested in the object to show cause why the order should not be made.
- (3) In considering whether to make an order under subsection (1) above a court shall have regard—
- (a) to the value of the object; and
  - (b) to the likely financial and other effects on—
    - (i) the offender; or
    - (ii) the owner of the object,

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of the making of the order (taken together with any other order that the court contemplates making).

## 17 Compensation where seizure unlawful

- (1) Subsection (2) below shall have effect where—
- (a) any relevant object is seized under subsection (1) of section 13 (advertising: seizure) of this Act; and
  - (b) any of the following applies—
    - (i) not less than six months have passed since the date of the seizure and no information has been laid against any person for an advertising offence in respect of the act or circumstances which occasioned the seizure;
    - (ii) proceedings for an advertising offence have been brought and the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought;
    - (iii) proceedings for an advertising offence have been brought and the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought.
- (2) Where this subsection has effect a person who has or at the time of seizure had a legal interest in the object seized may recover compensation from the council or (where it is seized by a constable) the Police Commissioner by civil action in the county court in respect of any loss suffered by him as a result of the seizure.
- (3) The court may only make an order for compensation under subsection (2) above if satisfied that seizure was not lawful under the said section 13.

### *Graffiti*

## 18 Defacement of buildings

- (1) Section 12 (defacement of buildings) of the [London Local Authorities Act 1995 \(c. x\)](#) is amended as follows.
- (2) In subsection (6) for “the council may themselves” there is substituted “the council, or a person authorised by the council may”.
- (3) After subsection (6D), the following subsection is inserted—
 

“(6E) In exercising the power under subsection (6) the council or any person authorised by the council may enter any land to the extent reasonably necessary for the purpose.”.
- (4) In subsection (7), for “the council may do so” there is substituted “the council (or a person authorised by the council) may do so”.
- (5) After section 12 (defacement of buildings), the following section is inserted—

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### “Indemnity

- (1) None of the persons mentioned in subsection (2) below is to have any liability to any person responsible for the relevant surface for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of—
  - (a) the power under subsection (1)(b) of section 12 (defacement of buildings) of this Act; or
  - (b) the power under subsection (6) of that section (including as provided for in subsection (6A) of that section);
  - (c) the power under subsection (7) of that section.
- (2) Those persons are—
  - (a) in the case of the power mentioned in the said subsection 1(b), the council and any employee of the council; and
  - (b) in the case of the power mentioned in the said subsections (6) and (7)—
    - (i) the council and any employee of the council;
    - (ii) any person authorised by the council under those said subsections and the employer or any employee of that person.
- (3) Subsection (1) above does not apply—
  - (a) if the act or omission is shown to have been in bad faith;
  - (b) to liability arising out of a failure to exercise due care and attention;
  - (c) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998 (c. 42).
- (4) This section is without prejudice to any other exemption from liability (whether at common law or otherwise).
- (5) For the purposes of subsection (1) above a person is responsible for a relevant surface if—
  - (a) where it is the surface of any premises (including a street), he owns, leases, occupies, controls, operates or maintains the land, and
  - (b) where it is the surface of apparatus or plant, he owns, leases, occupies, controls, operates or maintains the apparatus or plant.”.
- (6) After subsection (5) of section 13 (protective provisions for certain statutory undertakers) of the said Act of 1995 the following subsections are inserted—
  - “(5A) A counter-notice under subsection (4) above may, instead of specifying conditions as mentioned in that subsection, require the participating 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—
    - (a) without risk to the safety of any person; or
    - (b) without unreasonable risk to the efficient and economic operation of the protected party’s undertaking.

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(5B) Where a counter notice served under subsection (4) above contains such a requirement as is mentioned in subsection (5A) above the relevant power may not be exercised.”.

### *Waste and litter*

## **19 Placing of receptacles for household waste**

Section 46 of the 1990 Act (receptacles for household waste) shall apply in the area of a borough council as if, in subsection (4), the following paragraph were inserted after paragraph (b)—

“(ba) the placing of the receptacles for the purpose of avoiding nuisance or detriment to the amenities of the area;”.

## **20 Regulations relating to receptacles for household waste**

- (1) A borough council who have a duty by virtue of section 45(1)(a) of the 1990 Act to arrange for the collection of household waste from any premises, may make regulations requiring occupiers of such premises to place household waste for collection in receptacles of a kind and number specified.
- (2) A council may amend or revoke any regulations made under subsection (1) above.
- (3) Section 46 (2) to (5) of the 1990 Act (receptacles for household waste) shall apply in relation to any requirements contained in regulations made under subsection (1) above as if those requirements were made under section 46 (1) of that Act.
- (4) Any requirement contained in such regulations which relate to the periods during which receptacles should be placed on the highway shall be unenforceable by the council as respects any side of a road if the requirements are not described in a sign displayed on that side of the road.
- (5) The council shall cause to be published in at least two newspapers circulating in the borough notice—
  - (a) of the making, amendment or revocation of any regulations under subsection (1) above, the date on which the regulations are to come into force, or be amended or revoked, as the case may be, and the general effect of the regulations, the amendment or the revocation; and
  - (b) stating (except in the case of a revocation)—
    - (i) an address at which the regulations can be inspected during reasonable office hours and purchased for a reasonable amount; and
    - (ii) a website address at which the regulations can be viewed.
- (6) The date on which the regulations are to come into force, be amended or be revoked, as the case may be, shall not be earlier than the expiration of one month from the publication of the notice under subsection (5) above.
- (7) Sections 63(1) (waste other than controlled waste), 78 (radioactive substances) and 96 (application of Part II) of the 1990 Act shall apply to the provisions of this section as they apply to the provisions of Part II of that Act.
- (8) In this section—
 

“receptacle” has the meaning given to it by section 46 of the 1990 Act;

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“waste” and “household waste” have the meanings given to them by section 75 of the 1990 Act.

- (9) In this section and section 46 (2) to (6) of the 1990 Act as applied by subsection (3) above, “specified” means specified in regulations made under subsection (1) above.
- (10) Nothing in this section affects the ability of a borough council to serve notices under section 46 of the 1990 Act (receptacles for household waste).

## **21 Placing of receptacles for commercial or industrial waste**

- (1) Section 47 of the 1990 Act (receptacles for commercial or industrial waste) shall apply in the area of a borough council as if, in subsection (4), the following paragraph were inserted after paragraph (b)—
- “(ba) the placing of the receptacles for the purpose of avoiding nuisance or detriment to the amenities of the area;”.
- (2) Requirements making provision under section 47(4)(ba) of the 1990 Act (as inserted by subsection (1) above) shall not apply to—
- (a) a statutory undertaker in relation to any receptacle on its operational land;
- (b) any other person who is an occupier of—
- (i) any part of an aerodrome within the meaning of the Aviation Security Act 1982 (c. 36);
- (ii) harbour premises within the meaning of Part III of the 1990 Act; or
- (iii) other land comprised in a port facility within the meaning of article 2 of Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security;
- (c) any other person who has been given an instruction by the Secretary of State under section 119 of the Railways Act 1993 (c. 43) (security: power of Secretary of State to give instructions) for so long as that instruction remains in effect; or
- (d) any other person who is subject to a direction for the time being in force under article 16 of the Channel Tunnel Security Order 1994 (S.I. 1994 no. 570) or any similar provision replacing that article and that is contained in an order made under section 11 of the Channel Tunnel Act 1987 (c. 53) (regulation of the tunnel system: application and enforcement at law, etc.).
- (3) In subsection (2) above—
- “operational land” has the same meaning as in the Planning Act; and
- “statutory undertaker” has the same meaning as in section 262(1) of that Act.

## **22 Regulations relating to receptacles for commercial or industrial waste**

- (1) A borough council who are a waste collection authority under Part II of the 1990 Act may, if satisfied that doing so would prevent nuisances or detriment to the amenities of their area, make regulations requiring occupiers of premises to place commercial or industrial waste for collection in receptacles of a kind and number specified.
- (2) A council may amend or revoke any regulations made under subsection (1) above.

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- (3) Section 47 (3) to (6) of the 1990 Act (receptacles for commercial or industrial waste) shall apply in relation to any requirements contained in regulations made under subsection (1) above, as if those requirements were made under section 47 (1) of that Act.
- (4) Any requirements contained in such regulations which relate to the periods during which receptacles should be placed on the highway shall be unenforceable by the council as respects any side of a road if the requirements are not described in a sign displayed on that side of the road.
- (5) The council shall cause to be published in at least two newspapers circulating in the borough notice—
- (a) of the making, amendment or revocation of any regulations under subsection (1) above, the date on which the regulations are to come into force, or be amended or revoked, as the case may be, and the general effect of the regulations, the amendment or the revocation; and
  - (b) stating (except in the case of a revocation)—
    - (i) an address at which the regulations can be inspected during reasonable office hours and purchased for a reasonable amount; and
    - (ii) a website address at which the regulations can be viewed.
- (6) The date on which the regulations are to come into force, be amended or be revoked, as the case may be, shall not be earlier than the expiration of one month from the publication of the notice under subsection (5) above.
- (7) Sections 63(1) (waste other than controlled waste), 78 (radioactive substances) and 96 (application of Part II) of the 1990 Act shall apply to the provisions of this section as they apply to the provisions of Part II of that Act.
- (8) In this section—
- “receptacle” has the meaning given to it by section 46 of the 1990 Act;
  - “waste”, “commercial waste” and “industrial waste” have the meanings given to them by section 75 of the 1990 Act.
- (9) In this section and section 47 (3) to (6) of the 1990 Act as applied by subsection (3) above, “specified” means specified in regulations made under subsection (1) above.
- (10) Nothing in this section affects the ability of a borough council to serve notices under section 47 of the 1990 Act (receptacles for commercial or industrial waste).
- (11) Regulations under this section shall not apply to—
- (a) a statutory undertaker in relation to any of its operational land;
  - (b) any other person who is an occupier of—
    - (i) any part of an aerodrome within the meaning of the Aviation Security Act 1982 (c. 36);
    - (ii) harbour premises within the meaning of Part III of the 1990 Act; or
    - (iii) other land comprised in a port facility within the meaning of article 2 of Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security;
  - (c) any other person who has been given an instruction by the Secretary of State under section 119 of the Railways Act 1993 (c. 43) (security: power of



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Secretary of State to give instructions) for so long as that instruction remains in effect; or

- (d) any other person who is subject to a direction for the time being in force under article 16 of the [Channel Tunnel Security Order 1994 \(S.I. 1994 no. 570\)](#) or any similar provision replacing that article and that is contained in an order made under section 11 of the [Channel Tunnel Act 1987 \(c. 53\)](#) (regulation of the tunnel system: application and enforcement at law, etc.).

(12) In subsection (11) above—

“operational land” has the same meaning as in the Planning Act; and  
“statutory undertaker” has the same meaning as in section 262(1) of that Act.

### **23 Regulations relating to receptacles for waste: enforcement**

- (1) This section is a penalty charge provision for the purposes of section 61 (penalty charges) of this Act.
- (2) A penalty charge is payable to a borough council for the purposes of the said section 61 by any occupier of premises in respect of which there has been a failure, without reasonable excuse, to comply with any requirements imposed by regulations made under subsection (1) of section 20 (regulations relating to receptacles for household waste) or subsection (1) of section 22 (regulations relating to receptacles for commercial or industrial waste) of this Act.
- (3) The occupier of premises in respect of which the failure to comply with the regulations occurred is the appropriate recipient for the purposes of the said section 61.
- (4) For the purposes of subsection (1) of section 62 (representations and appeals) of this Act the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this section are—
  - (a) that the recipient—
    - (i) never was the occupier of the premises in question;
    - (ii) had ceased to be their occupier before the date on which the penalty charge was alleged to have become payable;
    - (iii) became the occupier after that date;
  - (b) that there was no failure to comply with the requirement in respect of which the penalty charge notice was issued;
  - (c) that there was a reasonable excuse for the failure to comply with the said requirement;
  - (d) that the said requirement is unreasonable;
  - (e) that the receptacles in which household waste is placed for collection from the premises are adequate;
  - (f) that, in the case of a failure to comply with any requirement relating to the periods during which receptacles should be placed on a highway, no sign relating to those requirements was displayed on the side of the road, as required by subsection (4) of the said section 20 or subsection (4) of the said section 22 as the case may be;
  - (g) that the penalty charge exceeded the amount applicable in the circumstances of the case.

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- (5) Where any of the grounds mentioned in subsection (4)(a) above is relied on in any representations made under subsection (1) of the said section 62, those representations must include a statement of the name and address of the occupier (if that information is in the recipient's possession).

## **24 Littering from vehicles**

- (1) This section is a penalty charge provision for the purposes of section 61 (penalty charges) of this Act.
- (2) Subject to subsection (3) below, a penalty charge is payable to a borough council for the purposes of the said section 61 with respect to a motor vehicle or a pedicab by the owner of the vehicle or pedicab if a person inside or on board the vehicle or pedicab acts in contravention of section 87 of the 1990 Act (offence of leaving litter).
- (3) A penalty charge is not payable under subsection (2) above by the owner of a motor vehicle or pedicab if that vehicle or pedicab is—
- (a) a public service vehicle, within the meaning of the Public Passenger Vehicles Act 1981 (c. 14);
  - (b) a hackney carriage licensed under the Town Police Clauses Act 1847 (c. 89) or the Metropolitan Public Carriage Act 1869 (c. 115);
  - (c) a private hire vehicle licensed under the Private Hire Vehicles (London) Act 1998 (c. 34);
  - (d) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (licensing of private hire vehicles);
- and the person acting in contravention of the said section 87 is a passenger in that vehicle.
- (4) The said section 87 shall apply in respect of a borough as if after paragraph (b) of subsection (2) there were inserted “or
- (c) done in circumstances where a penalty charge would be payable to a London borough council by virtue of section 24(2) (littering from vehicles) of the [London Local Authorities Act 2007 \(c. ii\)](#).”.
- (5) The owner of the vehicle is the appropriate recipient for the purposes of the said section 61.
- (6) For the purposes of subsection (1) of section 62 (representations and appeals) of this Act the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this section are—
- (a) that the recipient—
    - (i) never was the owner of the vehicle in question;
    - (ii) had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or
    - (iii) became its owner after that date;
  - (b) that no person inside the vehicle acted in contravention of the said section 87;
  - (c) that at the time the alleged contravention took place the person who was in control of the vehicle was in control of the vehicle without the consent of the owner;
  - (d) (except in the case of a pedicab) that the recipient is a vehicle-hire firm and—

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- (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
    - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty notice issued in respect of the vehicle during the currency of the hiring agreement; or
  - (e) that the penalty charge exceeded the amount applicable in the circumstances of the case.
- (7) Where the ground mentioned in subsection (6)(a)(ii) above is relied on in any representations made under subsection (1) of the said section 62, those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).
- (8) Where the ground mentioned in subsection (6)(a)(iii) above is relied on in any representations made under the said subsection (1), those representations must include a statement of the name and address of the person from whom the vehicle was acquired by the person making the representations (if that information is in his possession).
- (9) Where, after considering any representations under the said subsection (1) the ground that is accepted is that mentioned in subsection (6)(d) above, the person hiring the vehicle shall be deemed to be its owner for the purposes of this section.
- (10) The owner of a vehicle for the purposes of this section shall be taken to be the person by whom the vehicle is kept, or in the case of an abandoned vehicle, the person by whom the vehicle was last kept.
- (11) In determining, for the purposes of this section, who was the owner of a motor vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).
- (12) In this section, “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

## **25 Powers to require removal of waste unlawfully deposited**

- (1) Subject to subsections (4) and (8) below, section 59 of the 1990 Act shall have effect in the area of a borough council in accordance with this section.
- (2) For paragraph (a) of subsection (3) there is substituted—
- “(a) the appellant took all reasonable precautions and exercised all due diligence to avoid the deposit of the waste;”.
- (3) After subsection (3) the following subsection is inserted—
- “(3A) If in any case the ground given by the appellant under subsection (3)(a) above involves the allegation that the depositing of the waste was due to the act or default of another person, the appellant shall not, without leave of the court, be entitled to rely on that ground unless, no later than 7 clear days before the hearing of the appeal, he has served on the waste regulation authority or waste control authority a notice in writing giving such information (if any) as was then in his possession identifying or assisting in the identification of that other person.”.

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- (4) The amendments made by this section shall not have effect until a code of practice dealing with the operation of section 59(3)(a) of the 1990 Act as substituted by subsection (2) above is published by a joint committee.
- (5) A council shall have regard to the code of practice when exercising their powers under section 59.
- (6) The joint committee shall cause to be published in the London Gazette notice of the date on which the amendments made by this section come into effect.
- (7) A photostatic or any other reproduction certified by the officer appointed for that purpose by a borough council to be a true reproduction of a page or part of a page of the London Gazette—
- (a) bearing the date of its publication; and
  - (b) containing the notice,
- shall be evidence of the publication of the notice and of the date of publication.
- (8) This section shall not apply to notices served under section 59 of the 1990 Act in respect of—
- (a) the operational land of a protected party;
  - (b) a highway or special road for which the Minister is the highway authority (see section 1 of the Highways Act 1980 (c. 66));
  - (c) land forming any part of an aerodrome within the meaning of the Aviation Security Act 1982 (c. 36);
  - (d) harbour premises within the meaning of Part 3 of the 1990 Act; or
  - (e) other land comprised in a port facility within the meaning of article 2 of Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security.
- (9) In this section—
- “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;
- “operational land” has the same meaning as in the Planning Act;
- “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.

## **26 Civic amenity sites**

- (1) A borough council may require proof from a person depositing, intending to deposit or attempting to deposit refuse or waste at an amenity site that the person is resident in the area of the council or in the area of an adjoining local authority (such proof to be in such reasonable form as the council may specify).
- (2) Any person who fails to prove to the council’s reasonable satisfaction that he is resident in an area in accordance with a requirement under subsection (1) above may be the subject of a requirement under subsection (4) below.
- (3) If a council—

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- (a) are satisfied that a person is depositing, intending to deposit or attempting to deposit at an amenity site refuse which is refuse falling to be disposed of in the course of a business; or
  - (b) are satisfied that refuse or waste is being or has been deposited at an amenity site in contravention of any requirements made by them relating to the receptacles to be used for the deposit of refuse or waste,
- the person depositing, intending to deposit or attempting to deposit the refuse or waste may be the subject of a requirement under subsection (4) below.
- (4) A requirement under this subsection is a requirement—
- (a) not to enter the site;
  - (b) not to deposit waste or refuse at the site;
  - (c) to discontinue depositing waste or refuse at the site; or
  - (d) to retrieve any waste or refuse which has been deposited at the site and—
    - (i) remove it from the site; or
    - (ii) (in the case of waste or refuse which was placed in an incorrect receptacle) either place it in the correct receptacle or remove it from the site.
- (5) Any person who without reasonable excuse fails to comply with a requirement under subsection (4) above shall be guilty of an offence and liable on summary conviction—
- (a) in the case of an offence arising from an alleged failure to comply with a requirement under the said subsection (4) which was made as a result of the relevant authority being satisfied under subsection (3)(b) above, to a fine not exceeding level 1 on the standard scale;
  - (b) in any other case to a fine not exceeding level 3 on the standard scale.
- (6) Any person who, in response to a requirement to show proof in accordance with subsection (1) above gives information which is false in a material particular and does so recklessly or knowing it to be false in that particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) In any proceedings for an offence under subsection (5) above, it shall be a defence—
- (a) (in the case of an alleged failure to comply with a requirement under subsection (4) above which was made as a result of the council not being satisfied under subsection (2) above), that the council’s requirements relating to the proof required by them were not made clear by the provision of signs at or near to the entrance to the amenity site;
  - (b) (in the case of an alleged failure to comply with a requirement under subsection (4) above which was made as a result of the relevant authority being satisfied under subsection (3)(b)), that the council’s requirements relating to the receptacles to be used for the deposit of refuse or waste were not made clear by the provision of signs at the amenity site.
- (8) This subsection applies where a council have reasonable cause to believe that an offence under this section has been committed in their area by a person (in this section referred to as the “person responsible”) who was—
- (a) the driver of a vehicle in the amenity site;
  - (b) in charge of a vehicle in the amenity site;
  - (c) otherwise brought to the amenity site in a vehicle.

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- (9) Where subsection (8) above applies, the council may by notice in writing, specifying the offence and the provision of this section to which the notice relates, require—
- (a) the registered keeper of the vehicle to give them such information as they may require as to the identity of the person responsible;
  - (b) any other person to give them any information which it is in that person's power to give and which may lead to the identification of the person responsible.
- (10) A person shall be guilty of an offence if he fails to comply with a requirement of a notice under subsection (9) above or knowingly or recklessly gives false information in relation to the notice.
- (11) In any proceedings for failing to comply with such a requirement brought against the registered keeper of the vehicle it shall be a defence if he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who was the person responsible.
- (12) A person guilty of an offence under subsection (10) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) Where on summary trial of an information for an offence referred to in subsection (10) above—
- (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 144 of the Magistrates' Courts Act 1980 (c. 43), that a requirement under subsection (9) above to give information as to the identity of the person responsible on the particular occasion to which the information relates has been served on the accused; and
  - (b) a written statement that the accused was the person responsible on that occasion is produced to the court; and
  - (c) the statement purports to be signed by the accused,
- the court may accept that statement as evidence that the accused was the person responsible.
- (14) In this section—
- (a) an “amenity site” means a place provided by a council in compliance with a duty to provide places where refuse may be deposited, by virtue of section 1 of the 1978 Act;
  - (b) “local authority” means a borough council, a district council, or (in the case of a county in which there are no district councils) a county council;
  - (c) “registered keeper” in respect of a vehicle at any time means the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).

*Abandoned and nuisance vehicles*

**27 Removal of abandoned and nuisance vehicles**

- (1) Section 3(2) (requirement to give notice to occupier) of the 1978 Act does not apply where the vehicle is abandoned on any relevant land in Greater London.
- (2) This section is without prejudice to section 3(2A) of the 1978 Act (no requirement to give notice to occupier in the case of vehicle abandoned on a road).

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- (3) In this section, “relevant land” means land to which the public has access, and does not include any—
- (a) land within the curtilage of a dwelling;
  - (b) driveway giving access to a dwelling;
  - (c) fuel or field garden allotment within the meaning of section 19 of the Acquisition of Land Act 1981 (c. 67).

## **28 Disposal of removed vehicles**

- (1) Section 4 (disposal of abandoned vehicles) of the 1978 Act shall have effect in the area of a borough council in accordance with this section.

- (2) For subsection (5), there is substituted—

“(5) The local authority shall permit a person to remove a vehicle from their custody before it is disposed of by the local authority in pursuance of this section, if that person—

- (a) satisfies the authority that—
  - (i) he is its owner; and
  - (ii) either of subsections (5A) or (5B) below applies; and
  - (iii) he is insured to drive the vehicle; and
- (b) gives a bond in the prescribed sum to the authority in the case—
  - (i) where no current licence is displayed on the vehicle; or
  - (ii) where no test certificate is shown to the authority, in the case where section 47 of the Road Traffic Act 1988 (c. 52) (obligatory test certificates) applies to the vehicle; and
- (c) pays to the authority such sums in respect of its removal and storage as may be prescribed.

(5A) This subsection applies if the person in question has not been offered the opportunity to pay a fixed penalty under section 2A above.

(5B) This subsection applies if the person in question has been offered the opportunity to pay a fixed penalty under section 2A above and—

- (a) he has paid it; or
- (b) he has not paid it and the period mentioned in section 2A(2)(a) above has not expired; or
- (c) he has not paid it and the period within which proceedings may be instituted for the offence in question has expired and no such proceedings have been issued;
- (d) he has not paid it and proceedings for the offence have been instituted but not determined.

(5C) A bond under subsection (5)(b) above shall be repaid by the authority to the person who gave it once the authority is satisfied that a current licence has been obtained and can be displayed on the vehicle, or a test certificate has been issued in respect of the vehicle, as the case may be.

(5D) In subsection (5)(b) “prescribed sum” means such sum as may be prescribed by a joint committee established under section 101(5) of the Local

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Government Act 1972 (c. 70) and consisting of at least one representative from each London borough council.”.

### *Enforcement action zones*

## **29 Enforcement action zones**

- (1) Subject to section 30 (designation procedure for enforcement action zones) of this Act, a borough council (or two or more borough councils acting jointly) may designate an area of land in which, in their opinion, it is expedient that enhanced environmental crime enforcement action should be enabled.
- (2) An area designated under this section shall be known as an enforcement action zone and in this section and the said section 30 the council or councils designating the zone shall be known as the “designating authority”.
- (3) The area designated under this section may comprise two or more parcels of land which—
  - (a) need not be contiguous; and
  - (b) need not be in the area of the same borough council.
- (4) In deciding whether to designate any area of land, the designating authority shall have regard to such matters as they think fit.
- (5) Without prejudice to the generality of subsection (4) above, among the matters to which the designating authority may have regard in deciding whether to include a particular area of land in an order under this section, are—
  - (a) the level of environmental crime in the area;
  - (b) the nature of use of land in the area;
  - (c) the location of schools, playgrounds, recreation grounds, parks and other open spaces in the area;
  - (d) the living conditions of those who live in the area and the social conditions and general environment of the area.
- (6) A designating authority may by resolution bring to an end a designation under this section.
- (7) In this section, “environmental crime” means criminal activity which is related to the degradation of the amenity of an area.

## **30 Designation procedure for enforcement action zones**

- (1) Before designating any area under section 29 (enforcement action zones) of this Act, the designating authority shall publish, or cause to be published, in at least one local newspaper circulating in the locality, 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.
- (2) Any notice under subsection (1) above shall state that any objection to the proposal may be made to the proper officer of any one of the borough councils of whom the designating authority is comprised, in writing within such period (not being less than 21 days from the date when the notice was given), as is specified in the notice.



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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (3) The designating authority shall not designate an area under this section until after the expiry of the specified period.
- (4) In determining whether to designate an area under this section, the authority—
  - (a) shall take into account any objections made in accordance with subsection (2) 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.
- (5) Where the authority designates an area under this section, they shall notify any person who has made an objection in accordance with subsection (2) above.
- (6) The designation shall not come into effect until the approval of the Secretary of State has been obtained.
- (7) Any approval given by the Secretary of State under subsection (6) above—
  - (a) shall not be given until the designating authority has notified the Secretary of State that they have designated the area in accordance with this section;
  - (b) shall be given in writing to the designating authority; and
  - (c) may require the designating authority to make such modifications to the designation as he thinks appropriate.
- (8) The designating authority shall comply with any requirements made under subsection (7)(c) above.
- (9) Notice of the coming into effect of the designation of a particular area shall be published by the authority in at least one local 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;
  - (b) describe any modifications made in accordance with any requirements made under subsection (7)(c) above;
  - (c) 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
  - (d) specify a date when the designation shall come into effect, being at least 14 and not more than 28 days after the publication of the notice in the London Gazette.
- (10) A designation shall come into effect on the date specified in the notice given under subsection (9) above.

### **31 Enforcement action zones: modification of enactments**

- (1) If an enforcement action zone is established in an area, the enactments set out in the first column in Part 1 of the table in Schedule 2 to this Act shall as respects offences committed in the zone apply and have effect as if amended in accordance with the second column of that Part of that table.

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- (2) The enactments set out in the first column in Part 2 of the table in the said Schedule 2 shall apply and have effect in a borough as if amended in accordance with the second column of that Part of that table.

*Town and country planning*

**32 Application of section 215 of the Town and Country Planning Act 1990 to vegetation**

- (1) In section 215 of the Planning Act (power to require proper maintenance of land) as it applies in Greater London, “the condition of land” includes the condition of vegetation which is growing on or overhanging the land in question.
- (2) In section 217 of the Planning Act (appeal to magistrates' court against section 215 notice), subsection (1)(b) shall not apply in Greater London in respect of a notice so far as it relates to the condition of vegetation which is growing on or overhanging land.