

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 2: Vehicles

Nuisance Parking

Section 3 Exposing vehicles for sale on a road

32. Some garages and other businesses which sell cars at times park them for long periods on the road. This can be a nuisance to local residents. Section 3 makes it an offence for a person to park motor vehicles on a road or roads, where the vehicles are parked merely in order to be sold. There must be *two or more* vehicles *within 500 metres of each other* for the offence to be committed.
33. The provision is not aimed at individuals selling cars privately, so a person will not be convicted if he can prove that he was not acting for the purposes of a business (see *subsection (2)*). *Subsection (3)* sets out the penalties.
34. A 'road' is as defined in section 142 of the [Road Traffic Regulation Act 1984 \(c.27\)](#) as any length of highway or of any other road to which the public has access. Whether a piece of land is a road or not is a matter of fact. The main feature of a road is that the general public has a right to use it as a means of getting from A to B. The definition includes all highways (all the land to which the public has a right to pass along for the purpose of legitimate travelling and includes both the carriageway and footpath) and also access roads through estates that are owned by organisations such as Housing Associations or by the residents who live there. A car park for example would not normally come within the definition of a road as its function is to enable people to leave their vehicles.
35. Under *subsection (4)* 'motor vehicle' has the same meaning as in the [Refuse Disposal \(Amenity\) Act 1978 \(c.3\)](#) which is "a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer".

Section 4 Repairing vehicles on a road

36. This section addresses the nuisance caused by people repairing their vehicles on the street. This can take up valuable parking space for long periods, looks unsightly and can be directly damaging to the local environment (for example where oil is spilled or

leaked). Section 4 makes it an offence to carry out "restricted works" to vehicles on a road.

37. There are two exceptions. The first is where a person proves he was not repairing the vehicle in the course of a business (*subsection (3)(a)*). But this is only available where the works did not give "reasonable cause for annoyance" to persons in the vicinity. So even a person carrying out repairs otherwise than for a business can be convicted if the works gave cause for annoyance.
38. The second exception is where the repairs arose from a breakdown or accident and were carried out promptly or were otherwise authorised (*subsection (5)*).
39. The definitions of 'road' and 'vehicle' are the same as in the previous section (see paragraph 34 above).

Section 6 Power to issue fixed penalty notice

40. *Subsection (1)* enables any person authorised by a local authority to issue a fixed penalty notice for the offences of exposing vehicles for sale or repairing a vehicle on the road, offering the offender an opportunity to discharge any liability for the offence. *Subsection (8)* fixes the amount of the penalty at £100 which can be amended by order under *subsection (9)*. Under *subsection (10)* the local authority to which a fixed penalty is payable may provide for treating it as having been paid if a lesser amount is paid before the end of such (shorter) period as it may specify.

Section 7 Fixed penalty notices: power to require name and address

41. *Subsection (1)* provides an authorised officer of a local authority with the power to require the name and address of an offender if the officer proposes to give him a penalty notice. *Subsection (2)* makes it an offence to fail to provide the information asked for or to give inaccurate information.

Section 8 Use of fixed penalty receipts

42. *Subsections (2)* and *(3)* enable local authorities to use the receipts from fixed penalty notices issued pursuant to section 6 for the purposes of their functions under the Refuse Disposal (Amenity) Act 1978, under sections 99 to 102 of the Road Traffic Regulation Act 1984, functions relating to the enforcement of sections 3 and 4, and for other functions as are specified in regulations.
43. *Subsections (4)* to *(7)* make further provisions relating to the spending of fixed penalty receipts.
44. *Subsection (8)* allows regulations governing the spending by English local authorities of fixed penalties received pursuant to section 6 to be linked to categories of local authority (categorised in an order made pursuant to section 99(4) of the Local Government Act 2003). This is achieved by treating the regulation-making powers in section 8 as though they were included in section 100(2) of the Local Government Act 2003. For example, a local authority categorised as 'excellent' might be allowed (by virtue of regulations under *subsection (2)(d)*) to use its receipts for any of its functions.