

# **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary on Sections*

#### **Part 4: Graffiti and Other Defacement**

#### **Graffiti and fly-posting**

#### *Section 28 Graffiti and fly-posting offences: fixed penalty notices*

105. Section 43 of the Anti-social Behaviour Act 2003 allows authorised officers to issue fixed penalty notices for the offences of graffiti and fly-posting, and previously sets the amount payable for a graffiti or fly-posting fixed penalty notice at £50.
106. **Section 28** of this Act enables a local authority to vary the fixed penalty amount for a graffiti or fly-posting offence in its area. Where no amount is specified by a local authority, this section also raises the base amount from £50 to £75. This amount may be changed by an order made by the appropriate person. In either case, the local authority may provide for a lesser amount to be paid if early payment is made within a specified period. In addition, the appropriate person (the Secretary of State in relation to England and the National Assembly for Wales in relation to Wales) may make regulations relating to the fixed penalty amount, for example to specify a range within which the amount should fall.
107. Parish and community councils (by way of their qualifying as “litter authorities” under section 88(9)(f) of the 1990 Act, and thus as “local authorities” under these provisions) are also given the power to issue fixed penalty notices for the graffiti and fly-posting offences. The effect of *subsections (2) and (3)* of section 28 (relating to the definition of “relevant local authority”) is to require them to adopt the amount specified by the local authority.