



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 4

GRAFFITI AND OTHER DEFACEMENT

Graffiti and fly-posting

28 Fixed penalty notices: amount of fixed penalty

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

“43A Amount of penalty

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

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

Commencement Information

- I1** [S. 28](#) in force at 16.3.2006 for specified purposes for W. by [S.I. 2006/768](#), [art. 3](#)
- I2** [S. 28](#) in force at 6.4.2006 for E. by [S.I. 2006/795](#), [art. 2\(3\)](#), [Sch. 2](#)
- I3** [S. 28](#) in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force by [S.I. 2006/2797](#), [art. 4\(m\)](#)

29 Fixed penalty notices: power to require name and address

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

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

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

Commencement Information

- I4** [S. 29](#) in force at 6.4.2006 for E. by [S.I. 2006/795](#), [art. 2\(3\)](#), [Sch. 2](#)
- I5** [S. 29](#) in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by [S.I. 2006/2797](#), [art. 4\(n\)](#)

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30 Fixed penalty notices: authorised officers

- (1) In section 47 of the Anti-social Behaviour Act 2003 (c. 38) (interpretation etc), in subsection (1), for the definition of “authorised officer” substitute—

““authorised officer”, in relation to a local authority, means—

- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under section 43(1);
- (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.”.

- (2) In that section, at the end insert—

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

Commencement Information

- I6** [S. 30](#) in force at 16.3.2006 for specified purposes for W. by [S.I. 2006/768](#), [art. 3](#)
- I7** [S. 30](#) in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force by [S.I. 2006/2797](#), [art. 4\(o\)](#)
- I8** [S. 30\(1\)](#) in force at 6.4.2006 for E. by [S.I. 2006/795](#), [art. 2\(3\)](#), [Sch. 2](#)
- I9** [S. 30\(2\)](#) in force at 14.3.2006 for E. by [S.I. 2006/795](#), [art. 2\(1\)](#), [Sch. 1](#)

^{F1}31 Extension of graffiti removal notices to fly-posting

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Textual Amendments

- F1** [S. 31](#) repealed (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), [s. 185\(1\)](#), [Sch. 11 para. 50](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/2590](#), [art. 3\(g\)\(viii\)\(ee\)](#) (as renumbered (20.10.2014) by [S.I. 2014/2754](#), [arts. 1, 3\(b\)](#))

32 Sale of aerosol paint to children

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

“54A Enforcement of section 54

- (1) It is the duty of every local weights and measures authority—

- (a) to consider, at least once in every period of twelve months, the extent to which it is appropriate for the authority to carry out in their area a programme of enforcement action in relation to section 54; and
- (b) to the extent that they consider it appropriate to do so, carry out such a programme.

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- (2) For the purposes of subsection (1), a programme of enforcement action in relation to section 54 is a programme involving all or any of the following—
- (a) the bringing of prosecutions in respect of offences under that section;
 - (b) the investigation of complaints in respect of alleged offences under that section;
 - (c) the taking of other measures intended to reduce the incidence of offences under that section.”

Commencement Information

I10 [S. 32](#) in force at 1.7.2005 by [S.I. 2005/1675](#), [art. 2](#)

Changes to legislation:

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Commencement Orders yet to be applied to the Clean Neighbourhoods and Environment Act 2005

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2007/120 art. 3](#) Amendment to earlier commencing S.I. 2006/2797