



## 2011 CHAPTER 23

### PART 4

#### GRAFFITI AND OTHER DEFACEMENT

##### *Removal of graffiti and fly-posters*

##### **Defacement removal notices**

**31.—**(1) This section applies where a district council is satisfied—

- (a) that a relevant surface in the district of the council has been defaced by graffiti or any poster or placard the display of which contravenes regulations under [<sup>F1</sup>section 130 of the Planning Act (Northern Ireland) 2011], and
- (b) that the defacement is detrimental to the amenity of that district or is offensive.

(2) The council may serve a notice (a “defacement removal notice”) upon any person who is responsible for the surface imposing the requirement mentioned in subsection (3).

(3) That requirement is a requirement that the defacement be removed, cleared or otherwise remedied within a period specified in the notice being not less than 28 days beginning with the day on which the notice is served.

(4) If the requirement mentioned in subsection (3) is not complied with, the council or any person authorised by the council may remove, clear or otherwise remedy the defacement.

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*Changes to legislation: There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Section 31. (See end of Document for details)*

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(5) In exercising the power under subsection (4) the council or any person authorised by the council may enter any land to the extent reasonably necessary for that purpose.

(6) A defacement removal notice must explain the effect of subsections (4) and (5) and sections 32 and 34.

(7) Where after reasonable enquiry a district council is unable to ascertain the name or address of any person who is responsible for a relevant surface, the council may—

- (a) affix a defacement removal notice to the surface, and
- (b) enter any land to the extent reasonably necessary for that purpose;

and that notice shall be treated as having been served upon a person responsible for the surface.

(8) In this section and in section 35 a “relevant surface” is any of the following surfaces, whether internal or external or open to the air or not—

- (a) the surface of any street or of any building, structure, apparatus, plant or other object in or on any street;
- (b) the surface of any land owned, occupied or controlled by a statutory undertaker or of any building, structure, apparatus, plant or other object in or on any such land;
- (c) the surface of any land owned, occupied or controlled by an educational institution (including its governing body) or of any building, structure, apparatus, plant or other object in or on any such land.

(9) But a surface is not a relevant surface unless—

- (a) in the case of a surface within subsection (8)(a), the street is public land;
- (b) in the case of a surface within subsection (8)(b) or (c)—
  - (i) the land is public land,
  - (ii) the surface is visible from public land, or
  - (iii) the surface is otherwise visible to members of the public using the services or facilities of the statutory undertaker or educational institution in question or any other statutory undertaker or educational institution.

(10) A person is responsible for a relevant surface if—

- (a) where it is the surface of any land (including a street), that person owns, leases, occupies, controls, operates or maintains the land, and
- (b) where it is the surface of any other thing mentioned in subsection (8), that person owns, leases, occupies, controls, operates or maintains the thing.

(11) In this section and in sections 32 to 35—

“defacement removal notice” has the meaning given by subsection (2),

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“educational institution” has the meaning given by Article 2(2) of the Litter (Northern Ireland) Order 1994 (NI 10),

“graffiti” includes painting, writing, soiling, marking or other defacing by whatever means,

“public land” means land to which the public are entitled or permitted to have access with or without payment (including any street to which the public are so entitled or permitted),

“statutory undertaker” has the meaning given by Article 2(2) of the Litter (Northern Ireland) Order 1994,

“street” has the meaning given by Article 3(1) of the Street Works (Northern Ireland) Order 1995 (NI 19).

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#### **Textual Amendments**

- F1** Words in s. 31(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 110](#) (with s. 211); [S.R. 2015/49, arts. 2, 3, Sch. 1](#) (with [Sch. 2](#) (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#)))

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#### **Commencement Information**

- I1** S. 31 in operation at 1.4.2012 by [S.R. 2012/13, art. 2\(2\), Sch. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, Section 31.