



2011 CHAPTER 23

PART 4

GRAFFITI AND OTHER DEFACEMENT

Removal of graffiti and fly-posters

Exemption from liability in relation to defacement removal notices

35.—(1) None of the persons mentioned in subsection (2) shall 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 (4) of section 31 (including as provided for in subsection (5) of that section), or
- (b) the power under subsection (7) of that section.

(2) Those persons are—

- (a) in the case of the power mentioned in subsection (1)(a)—
 - (i) the district council and any employee of the council, and
 - (ii) any person authorised by the district council under section 31(4) and the employer or any employee of that person, and
- (b) in the case of the power mentioned in subsection (1)(b) the district council and any employee of the council.

(3) Subsection (1) 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 does not affect any other exemption from liability (whether at common law or otherwise).
- (5) Section 31(10) shall apply for the purposes of this section as it applies for the purposes of that section.