



# London Local Authorities Act 2004

## 2004 CHAPTER i

### PART 3

#### PUBLIC HEALTH AND THE ENVIRONMENT

#### **9 Nuisance from birds**

- (1) If in the opinion of a borough council the habitual nesting, roosting or alighting of birds on any part of a building or structure (including a bridge) fronting upon, crossing or overhanging a highway in the area of the council is a source of nuisance to pedestrians using that highway, the council may serve a notice under this section upon the owner or occupier of the building or structure.

This subsection is subject to the provisions of the Wildlife and Countryside Act 1981 (c. 69) and to subsection (4) below.

- (2) If after reasonable enquiry the council have been unable to ascertain the name and address of the owner or occupier, they may affix a notice to the building or structure.
- (3) A notice under this section is a notice requiring, within such reasonable time (not being less than 28 days) as may be specified in the notice, the owner or occupier of the building or structure to take measures for the purpose of preventing or minimising the habitual nesting, roosting or alighting of birds on the part of the building or structure concerned and the council may specify such measures in the notice.
- (4) The measures which may be specified in a notice under this section may include the erection of baffles, nets or wires or the laying of gel on the building or structure or other measures of a like nature but shall not include any method prohibited by the said Act of 1981.
- (5) The sections of the Public Health Act 1936 (c. 49) mentioned in Schedule 1 to this Act shall have effect as if references therein to that Act included references to this section.
- (6) This section shall have effect as if it were an Act or order to which section 42 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (which makes

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provision for certain local Acts and orders to be subject to the planning enactments) applies.

- (7) Subsections (8) to (10) below apply where a borough council serve a notice under this section on—
- (a) the British Railways Board, in respect of any bridge owned by the Board; or
  - (b) any protected party in respect of its operational land,
- and the notice specifies measures to be taken for the purpose mentioned in subsection (3) above.
- (8) The party on whom a notice under this section is served may, within a period of 28 days beginning with the day on which the notice is served, serve a counter-notice on the borough council specifying alternative measures which will in their reasonable opinion have the effect of preventing or minimising the habitual nesting, roosting or alighting of birds on the part of the building or structure concerned to the same or greater extent than the measures specified in the notice.
- (9) Where a counter-notice is served under subsection (8) above, the notice served under subsection (1) above shall be deemed to specify the alternative measures specified in the counter-notice and shall be deemed to have been served on the date the counter-notice was served.
- (10) Where a counter-notice is served under subsection (8) above and, before the expiry of the period of 28 days beginning with the date on which the counter-notice is served, the council serves a further notice requiring further measures to be taken, the protected party shall comply with the further notice within such period as may be specified in the further notice.
- (11) The measures specified in any such further notice shall complement the measures specified in the counter-notice to which it relates.
- (12) The period within which—
- (a) an owner or occupier must comply with the requirements of a notice served under subsection (1) above; or
  - (b) a protected party must comply with the requirements of—
    - (i) a counter-notice served under subsection (8) above; or
    - (ii) a further notice under subsection (10) above,
 may be extended with the agreement of the council.
- (13) In this section “protected party” means—
- (a) Network Rail Infrastructure Limited;
  - (b) Transport for London;
  - (c) the British Waterways Board;
  - (d) the Port of London Authority,
- and their subsidiaries (within the meaning given by section 736 of the Companies Act 1985 (c. 6)), servants, agents and contractors.

## **10 Dangerous structures and demolitions**

- (1) Section 81(1)(b) (Local Authority’s power to serve notice about demolition) of the Act of 1984 shall have effect in the area of a borough council as if—

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- (a) for the reference to an order made under section 77 (Dangerous building) of the Act of 1984 there were substituted a reference to an order made under section 64 (Proceedings to enforce compliance with notice) of the Act of 1939; and
  - (b) for the reference to a notice given under section 79 (Ruinous and dilapidated buildings and neglected sites) of the Act of 1984 there were substituted a reference to an order under section 69 (Removal of dilapidated and neglected structures) of the Act of 1939.
- (2) Section 45 of the [London Local Authorities Act 2000 \(c. vii\)](#) is amended as follows—
- (a) in subsection (4), after “dangerous buildings)” the words “, section 78 (Dangerous building – emergency measures)” are inserted;
  - (b) in subsection (5), the figures “77 to 80, 82, 83” are replaced by the figures “77 to 79”; and
  - (c) in subsection (6), in the definition of “the London Building Acts”, the words “as amended” to the end are omitted.
- (3) A borough council may recover from a person on whom a notice is served under section 81 of the Act of 1984 any expenses reasonably incurred by them under that section, in addition to any expenses recoverable under section 99 of that Act.
- (4) Sections 107 to 110 of the Act of 1984 shall apply in respect of expenses recoverable under subsection (3) above as they apply in respect of expenses to which those sections apply.
- (5) In its application under subsection (4) above, for the reference in the said section 107 to the person who is the owner of the premises at the date on which the works were completed there shall be substituted a reference to the person on whom the notice under the said section 81 was served.
- (6) In this section—
- “the Act of 1939” means the [London Building Acts \(Amendment\) Act 1939 \(c. xcvi\)](#);
  - “the Act of 1984” means the [Building Act 1984 \(c. 55\)](#).

## **11 Repair, etc., of vehicles on highways**

- (1) Subsection (2)(b) of section 5 (Repair, etc., of vehicles on highways) of the [Greater London Council \(General Powers\) Act 1982 \(c. i\)](#) is repealed.
- (2) After subsection (4) of that section, the following subsection is inserted—
- “(4A) A person shall not be convicted of an offence under this section if he proves to the satisfaction of the court that the works were carried out otherwise than—
- (a) in the course of, or for the purposes of, a business; or
  - (b) for gain or reward.”.

## **12 Defacement of buildings**

- (1) Section 12 (Defacement of buildings) of the [London Local Authorities Act 1995 \(c. x\)](#) is amended in accordance with this section.
- (2) In subsections (1)(a), (1)(b), (3) and (7) the words “, apparatus or plant” are inserted after “premises”.

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- (3) In subsection (6), at the end, the words “and, subject to subsection (6A) below, they may recover from the said person the expenses reasonably incurred by them in so doing” are inserted.
- (4) After subsection (6) the following subsections are inserted—
- “(6A) The council may not recover their expenses under subsection (6) above in respect of a sign on a surface to which this section applies if the surface—
- (a) forms part of a flat or a dwellinghouse; or
- (b) is within the curtilage of or forms part of the boundary of the curtilage of a dwellinghouse.
- (6B) In proceedings by the council against the person served with the notice for the recovery of any expenses which the council are entitled to recover from that person, it shall not be open to that person to raise any question which could have been raised on an appeal under this section.
- (6C) Sections 291 and 293 of the Public Health Act 1936 (c. 49) shall have effect as if references therein to that Act included references to this section.
- (6D) No council shall exercise their powers to recover expenses from any person under subsection (6) above until a code of practice dealing with the exercise of those powers has been published by a joint committee.”.
- (5) In subsection (9), the words “premises, apparatus or plant” are substituted for “building, wall, fence or other structure or erection”.
- (6) After subsection (9) the following subsection is inserted—
- “(10) In this section—
- “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building;
- “flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;
- “joint committee” means any joint committee established under section 101(5) of the Local Government Act 1972 (c. 70) and comprising at least one member from each borough council;
- “premises” means building, wall, fence or other structure or erection.”.

### **13 Defacement of buildings: protection of universal postal service providers**

- (1) For the purposes of section 12(1) (Defacement of buildings) of the [London Local Authorities Act 1995 \(c. x\)](#), a universal service provider shall be deemed to be the occupier of any plant or apparatus comprising a universal postal service letter box or universal postal service pouch-box belonging to it.
- (2) Before serving any notice under section 12(1)(a) of that Act in respect of a universal postal service letter box or universal postal service pouch-box a council shall serve not less than 28 days' notice of their intention to do so on the universal service provider to which the letter box or pouch-box belongs.

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(3) In this section—

“universal service provider” means any universal service provider for the purposes of the Postal Services Act 2000 (c. 26);

“universal postal service letter box” has the meaning given in section 86(4) of that Act;

“universal postal service pouch-box” has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

#### **14 Defacement of buildings: further protection of railway and waterway undertakers**

(1) Section 12 (Defacement of buildings) of the London Local Authorities Act 1995 shall not apply to any surface which forms part of the operational land of a protected party unless it is a surface to which this section applies.

(2) This section applies to any surface which abuts on or to which access is given directly from—

(a) a street; or

(b) any place other than a street to which the public have access as of right.

(3) In this section—

“protected party” has the same meaning as in section 13 of the said Act of 1995;

“street” includes any highway, any bridge carrying a highway and any road, lane, mews, footway, square, court, alley or passage, whether a thoroughfare or not.