

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 4: Graffiti and Other Defacement

Advertisements

Section 33 Unlawful display of advertisements: defences

117. It is an offence under section 224 of the Town and Country Planning Act 1990 to display an advertisement in contravention of regulations under section 220 of that Act. The offence is capable of being committed by a person who owns land where the advertisement is displayed, or whose business or concerns are advertised.
118. However, prior to section 33 of this Act coming into force, there was a defence for such a person, namely where he proves that the advertisement was displayed without his knowledge or consent. That presented a difficulty for local authorities, which effectively had to prove that the person both knew of and consented to the display of the advertisement, making it very hard to secure a conviction.
119. The Act amends the statutory defence. It removes the requirement for a local authority to prove that a person consented to the display of an advertisement in contravention of regulations.
120. The amended defence is that the advertisement was either displayed without the knowledge of the person; or that he either took all reasonable steps to prevent the display, or to secure its removal after the advertisement had been displayed.