



# 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;

- (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).”

## 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.”

## 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).”

### **31 Extension of graffiti removal notices to fly-posting**

- (1) Section 48 of the Anti-social Behaviour Act 2003 (c. 38) (graffiti removal notices) is amended as follows.
- (2) In subsection (1)(a) (section to apply where a relevant surface has been defaced by graffiti), after “graffiti” insert “or any poster or flyer the display of which contravenes regulations under section 220 of the Town and Country Planning Act 1990”.

### **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.
- (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.”