



2011 CHAPTER 23

PART 4

GRAFFITI AND OTHER DEFACEMENT

Penalty notices for graffiti and fly-posting

Penalty notices for graffiti and fly-posting

26.—(1) Where an authorised officer of a district council has reason to believe that a person has committed a relevant offence in the district of that council, the officer may give that person a notice offering that person the opportunity of discharging any liability to conviction for that offence by payment of a penalty in accordance with the notice.

(2) But an authorised officer shall not give a notice under subsection (1) if the officer considers that the commission of the relevant offence was motivated (wholly or partly) by hostility—

- (a) towards a person based upon that person's membership (or presumed membership) of a racial or religious group, or
- (b) towards members of a racial or religious group based on their membership of that group.

(3) In the case of a relevant offence under Article 84(2) of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#), an authorised officer shall not give a notice to a person under subsection (1) in relation to the display of an advertisement unless the officer has reason to believe that that person personally affixed or placed the advertisement to, against or upon the land or object on which the advertisement is or was displayed.

(4) Where a person is given a notice under subsection (1) in respect of an offence—

- (a) no proceedings shall be instituted for that offence (or any other relevant offence arising out of the same circumstances) before the expiration of the period of 14 days following the date of the notice, and
- (b) that person shall not be convicted of that offence (or any other relevant offence arising out of the same circumstances) if before the expiration of that period that person pays the penalty in accordance with the notice.

(5) A notice under subsection (1) must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(6) A notice under subsection (1) shall also state—

- (a) the period during which, by virtue of subsection (4), proceedings will not be instituted for the offence,
- (b) the amount of the penalty, and
- (c) the person to whom and the address at which the penalty may be paid.

(7) Without prejudice to payment by any other method, payment of a penalty in pursuance of a notice under subsection (1) may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (6)(c) at the address so mentioned.

(8) Where a letter is sent in accordance with subsection (7) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(9) A notice under subsection (1) shall be in such form as the Department may by order prescribe.

(10) In this section—

“advertisement” has the meaning given by Article 2(2) of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#);

“authorised officer”, in relation to a district council, means—

- (a) an employee of the district council who is authorised in writing by the council for the purposes of giving notices under this section;
- (b) any person who, in pursuance of arrangements made with the council, has the function of giving such notices and is authorised in writing by the council to perform that function; and
- (c) any employee of such a person who is authorised in writing by the council for the purpose of giving such notices;

“racial group” has the meaning given by Article 5(1) of the [Race Relations \(Northern Ireland\) Order 1997 \(NI 4\)](#);

“relevant offence” means—

- (a) an offence under Article 33 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (interference with, or damage to, traffic signs), which involves only an act of defacement;
- (b) an offence under Article 87(1) of the [Roads \(Northern Ireland\) Order 1993 \(NI 15\)](#) (painting, making marks or displaying advertisements on roads);
- (c) an offence under Article 84(2) of the [Planning \(Northern Ireland\) Order 1991](#) (displaying advertisement in contravention of regulations made under Article 67 of that Order);

“religious group” has the meaning given by Article 2(5) of the [Criminal Justice \(No. 2\) \(Northern Ireland\) Order 2004 \(NI 15\)](#).

(11) The definitions of “membership” and “presumed” in Article 2(5) of the [Criminal Justice \(No. 2\) \(Northern Ireland\) Order 2004 \(NI 15\)](#) shall apply for the purposes of subsection (2) as they apply for the purposes of Article 2(3) of that Order.

(12) In Article 87(11) of the [Roads \(Northern Ireland\) Order 1993](#) at the end add “and to an authorised officer of a district council (within the meaning of section 26 of the [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011](#)) acting in connection with an offence under paragraph (1).”.