

LOCALISM ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 6: Planning

Chapter 5: Enforcement

Section 127: Powers in relation to: unauthorised advertisements; defacement of premises

321. *Subsection (1)* inserts five sections at the end of Chapter 3 of Part 8 of the Town and Country Planning Act 1990.

New sections 225A and 225B: Power to remove structures used for unauthorised display

322. New section 225A allows a local planning authority in England to remove any display structure in their area which, in their opinion, is used for the display of illegal advertisements. This is not effective against a structure in a building to which the public have no right of access.
323. Before taking any action, the local planning authority must serve a removal notice on the person responsible for the erection and maintenance of the structure, provided they can identify the person. If not, the authority must fix the removal notice to the structure or display it in the vicinity and serve a copy on the occupier of the land, if one is known or can be identified. If the removal notice is not complied with within the time allowed (at least 21 days), the authority may remove the structure and recover its expenses from anyone served with the removal notice. A person who can satisfy the authority that he or she was not responsible for either the erection or maintenance of the structure cannot be required to pay the expenses.
324. If the authority damages any land or chattels in removing the structure, they must pay compensation, but not for damage to the structure removed or for damage reasonably caused in moving the structure.
325. There is a right of appeal to the magistrates' court against a section 225A notice. However, in proceedings for cost recovery the applicant cannot raise any issue that they could have raised in an appeal against the notice.

New sections 225C to 225E: Remedying persistent problems with unauthorised advertisements

326. New section 225C allows local planning authorities in England to take action against persistent fly-posting on 'surfaces'. They may serve an action notice on the owner or occupier of the land where the surface is situated if their name and address are known or can be discovered. If not, they may fix the notice to the surface. The action notice requires the owner or occupier to take specified measures to prevent or reduce the frequency of the unauthorised advertisements. At least 27 days must be allowed for

*These notes refer to the Localism Act 2011 (c.20)
which received Royal Assent on 15 November 2011*

action to be taken. If action is not taken, the authority may take the specified action itself and recover its expenses from the owner or occupier. Expenses cannot be recovered if the surface is on, within the curtilage of, or forms part of the curtilage boundary of, a dwellinghouse.

327. There is a right of appeal to the magistrates' court against a section 225C notice. However, in proceedings for cost recovery the applicant cannot raise any issue that they could have raised in an appeal against the notice.
328. New section 225E modifies the notice procedure for statutory undertakers. If a notice under new section 225C is served on a statutory undertaker, it can serve a counter-notice on the local planning authority specifying alternative measures which would have the same effect as the notice in dealing with fly-posting.
329. *Subsection (2)* of section 127 inserts new Chapters 4 and 5 into Part 8 of the Town and Country Planning Act 1990.

New sections 225F to 225J: Power to remedy defacement of premises

330. New section 225F allows local planning authorities in England to take action against signs (graffiti) which it considers to be detrimental to the amenity of the area or offensive. The authority may serve a notice on the occupier of the premises requiring them to remove or obliterate the sign allowing at least 14 days to comply. If there appears to be no occupier, the authority may fix the notice to the surface. If action is not taken within the time specified, the authority may take the action itself and recover its expenses from the person who should have done it. Expenses cannot be recovered if the surface is on, within the curtilage of, or forms part of the curtilage boundary of, a dwellinghouse.
331. New sections 225G and 225H provide that the local planning authority must give 28 days' notice of their intention to serve a notice under new section 225F on the owners of letter boxes and bus shelters and other street furniture.
332. There is a right of appeal to the magistrates' court against a section 225F notice. However, in proceedings for cost recovery the applicant cannot raise any issue that they could have raised in an appeal against the notice.
333. New section 225J enables the local planning authority to remove signs at the request of the owner or occupier of premises at that person's expense.
334. New section 225K modifies the provisions to enter land and do works to remove hoardings, fly-posters or graffiti so far as they apply to the operational land of transport statutory undertakers (except airports). The power can only be exercised if the local planning authority has given 28 days' notice of its intention to do so. The statutory undertaker can serve a counter-notice which, on safety or operational grounds or to protect other works or apparatus, would impose conditions on the taking of the action. The statutory undertaker can also prevent the action being taken.
335. [Section 127](#) replaces provisions of certain London Local Authorities Acts that apply only in relation to London with provisions that apply throughout England.