

Graffiti Prevention Act 2007
No. 59 of 2007

Part 4—Removal or Obliteration of Graffiti

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PART 4—REMOVAL OR OBLITERATION OF GRAFFITI

18 Removal of graffiti from private property

- (1) A Council may, in accordance with this section, take any action necessary to remove or obliterate graffiti on private property if the graffiti is visible from a public place.
- (2) A Council may enter private property for the purposes of subsection (1) if—
 - (a) the Council has served a notice under this section on the owner or occupier of the property at least 28 days before the action to remove or obliterate the graffiti is proposed to be taken; and
 - (b) the owner or occupier of the property has given written consent to—
 - (i) the removal or obliteration of the graffiti; and
 - (ii) entry to the property for that purpose.
- (3) If entry to private property is not necessary for the purposes of subsection (1)—
 - (a) the Council must serve a notice under this section on the owner or occupier of the property at least 10 days before the action to remove or obliterate the graffiti is proposed to be taken; and
 - (b) the Council may take the action if the owner or occupier of the property—
 - (i) gives written consent to the removal or obliteration of the graffiti; or
 - (ii) does not object, in accordance with the notice, to the action being taken.

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- (4) A notice referred to in subsection (2)(a) or (3)(a) must—
- (a) give particulars of the action proposed to remove or obliterate the graffiti; and
 - (b) specify the date on which the action is proposed to be taken; and
 - (c) specify the manner of objecting to the proposed action; and
 - (d) inform the owner or occupier of the terms of section 21.
- (5) A notice under this section may be addressed by the description of "the owner" or "the occupier" of the property (naming it) in respect of which the notice is given, without further name or description.
- (6) A notice under this section may be served—
- (a) by delivering it personally to the person to be served; or
 - (b) by leaving it at that person's usual or last known place of residence with a person apparently over the age of 16 years and apparently residing there; or
 - (c) by sending it by post addressed to that person's usual or last known place of residence; or
 - (d) if that person's name and address are not known to the server, by posting it up on a conspicuous part of the property in respect of which the notice is given.
- (7) The proposed action to remove or obliterate graffiti must not be taken if—
- (a) where entry to private property is necessary, the owner or occupier does not give written consent as required by subsection (2)(b); or
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- (b) where entry to private property is not necessary, the owner or occupier objects to the proposed action in the manner specified in the notice referred to in subsection (3)(a) at any time before the proposed action is taken.
- (8) In taking action to remove or obliterate graffiti under this section, a Council must—
- (a) take reasonable steps to consult with the owner or occupier of the property in relation to the manner in which the action is to be taken; and
 - (b) if entry to private property is necessary, ensure that the work is carried out by an authorised person; and
 - (c) ensure, as far as is practicable, that the work is carried out—
 - (i) expeditiously and in such a way as to avoid unnecessary inconvenience or disruption to the owner or occupier of the property; and
 - (ii) with reasonable care and to a reasonable standard.

19 Authorised persons

- (1) A Council may authorise a person in writing to carry out the Council's functions under section 18.
 - (2) In determining whether to authorise a person under subsection (1), a Council must consider whether the person—
 - (a) has the relevant knowledge and experience and is competent to exercise the functions conferred on an authorised person under this Part; and
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- (b) is of good repute, having regard to character, honesty and integrity; and
 - (c) has agreed in writing to exercise the functions and powers conferred on an authorised person under this Part in accordance with performance criteria determined from time to time by the Council.
- (3) An authorisation under this section is for the term, and subject to the conditions, specified in the authorisation.

20 Authorised persons to have identity card

- (1) A Council must issue an identity card to a person authorised under section 19.
- (2) An identity card under subsection (1) must—
- (a) contain a photograph of the authorised person; and
 - (b) contain the signature of the authorised person; and
 - (c) be signed by a member of staff of the Council authorised by the Council to do so, either generally or in a particular case.
- (3) An authorised person who is exercising a power or performing a function under section 18 must produce his or her identity card on being requested to do so.
- (4) Any action taken or thing done by an authorised person is not invalidated by his or her failure to produce his or her identity card.

21 No compensation

No compensation is payable in respect of any loss, damage or injury to property resulting from or arising out of any act or omission done in good faith by any person in the exercise of a power or the performance of a function under this Part.

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22 No duty to remove graffiti

Nothing in this Part imposes a duty on a Council to remove or obliterate graffiti from private property.
