



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART V

#### PUBLIC ORDER: COLLECTIVE TRESPASS OR NUISANCE ON LAND

##### *Powers to remove trespassers on land*

#### **61 Power to remove trespassers on land.**

- (1) If the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and—
  - (a) that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his, or
  - (b) that those persons have between them six or more vehicles on the land,he may direct those persons, or any of them, to leave the land and to remove any vehicles or other property they have with them on the land.
- (2) Where the persons in question are reasonably believed by the senior police officer to be persons who were not originally trespassers but have become trespassers on the land, the officer must reasonably believe that the other conditions specified in subsection (1) are satisfied after those persons became trespassers before he can exercise the power conferred by that subsection.
- (3) A direction under subsection (1) above, if not communicated to the persons referred to in subsection (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.

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- (4) If a person knowing that a direction under subsection (1) above has been given which applies to him—
- (a) fails to leave the land as soon as reasonably practicable, or
  - (b) having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given,
- he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

[<sup>F1</sup>(4A) Where, as respects Scotland, the reason why these persons have become trespassers is that they have ceased to be entitled to exercise access rights by virtue of—

- (a) their having formed the common purpose mentioned in subsection (1) above; or
- (b) one or more of the conditions specified in paragraphs (a) and (b) of that subsection having been satisfied,

the circumstances constituting that reason shall be treated, for the purposes of subsection (4) above, as having also occurred after these persons became trespassers.

(4B) In subsection (4A) above “access rights” has the meaning given by the Land Reform (Scotland) Act 2003 (asp 2).]

(5) [<sup>F2</sup>A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.]

- (6) In proceedings for an offence under this section it is a defence for the accused to show—
- (a) that he was not trespassing on the land, or
  - (b) that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land as a trespasser.

(7) In its application in England and Wales to common land this section has effect as if in the preceding subsections of it—

- (a) references to trespassing or trespassers were references to acts and persons doing acts which constitute either a trespass as against the occupier or an infringement of the commoners’ rights; and
- (b) references to “the occupier” included the commoners or any of them or, in the case of common land to which the public has access, the local authority as well as any commoner.

(8) Subsection (7) above does not—

- (a) require action by more than one occupier; or
- (b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(9) In this section—

“common land” means common land as defined in section 22 of the <sup>M1</sup>Commons Registration Act 1965;

“commoner” means a person with rights of common as defined in section 22 of the <sup>M2</sup>Commons Registration Act 1965;

“land” does not include—

- (a) buildings other than—

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- (i) agricultural buildings within the meaning of, in England and Wales, paragraphs 3 to 8 of Schedule 5 to the <sup>M3</sup>Local Government Finance Act 1988 or, in Scotland, section 7(2) of the <sup>M4</sup>Valuation and Rating (Scotland) Act 1956, or
  - (ii) scheduled monuments within the meaning of the <sup>M5</sup>Ancient Monuments and Archaeological Areas Act 1979;
- (b) land forming part of—
- (i) a highway unless [<sup>F3</sup>it is a footpath, bridleway or byway open to all traffic within the meaning of Part III of the Wildlife and Countryside Act 1981, is a restricted byway within the meaning of Part II of the Countryside and Rights of Way Act 2000]or is a cycle track under the <sup>M6</sup>Highways Act 1980 or the <sup>M7</sup>Cycle Tracks Act 1984; or
  - (ii) a road within the meaning of the <sup>M8</sup>Roads (Scotland) Act 1984 unless it falls within the definitions in section 151(2)(a)(ii) or (b) (footpaths and cycle tracks) of that Act or is a bridleway within the meaning of section 47 of the <sup>M9</sup>Countryside (Scotland) Act 1967;
- “the local authority”, in relation to common land, means any local authority which has powers in relation to the land under section 9 of the Commons Registration Act 1965;
- “occupier” (and in subsection (8) “the other occupier”) means—
- (a) in England and Wales, the person entitled to possession of the land by virtue of an estate or interest held by him; and
  - (b) in Scotland, the person lawfully entitled to natural possession of the land;
- “property”, in relation to damage to property on land, means—
- (a) in England and Wales, property within the meaning of section 10(1) of the <sup>M10</sup>Criminal Damage Act 1971; and
  - (b) in Scotland, either—
    - (i) heritable property other than land; or
    - (ii) corporeal moveable property,
- and “damage” includes the deposit of any substance capable of polluting the land;
- “trespass” means, in the application of this section—
- (a) in England and Wales, subject to the extensions effected by subsection (7) above, trespass as against the occupier of the land;
  - (b) in Scotland, entering, or as the case may be remaining on, land without lawful authority and without the occupier’s consent; and
- “trespassing” and “trespasser” shall be construed accordingly;
- “vehicle” includes—
- (a) any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and
  - (b) a caravan as defined in section 29(1) of the <sup>M11</sup>Caravan Sites and Control of Development Act 1960;

and a person may be regarded for the purposes of this section as having a purpose of residing in a place notwithstanding that he has a home elsewhere.

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#### Textual Amendments

- F1** S 61(4A)(4B) inserted (S.) (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), ss. 99, 100(3)(4), [Sch. 2 para. 11](#) (with s. 100(2)); S.S.I. 2005/17, [art. 2\(b\)](#)
- F2** S. 61(5) repealed (E.W.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 174, 178, [Sch. 7 para. 31\(2\)](#), [Sch. 17](#); S.I. 2005/3495, [art. 2\(1\)\(u\)\(xxxvi\)](#) (subject to art. 2)
- F3** Words in s. 61(9) substituted (2.5.2006 for E., 11.5.2006 for W.) by [2000 c. 37](#), ss. 51, 103, [Sch. 5 Pt. 2 para. 17](#); S.I. 2006/1172, [art. 2\(g\)\(iv\)](#); S.I. 2006/1279, [art. 2\(e\)\(g\)](#)

#### Marginal Citations

- M1** 1965 c. 64.  
**M2** 1965 c. 64.  
**M3** 1988 c. 41.  
**M4** 1956 c. 60.  
**M5** 1979 c. 46.  
**M6** 1980 c. 66.  
**M7** 1984 c. 38.  
**M8** 1984 c. 54.  
**M9** 1967 c. 86.  
**M10** 1971 c. 48.  
**M11** 1960 c. 62.

## 62 Supplementary powers of seizure.

- (1) If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—
- (a) failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or
  - (b) entered the land as a trespasser with a vehicle within the period of three months beginning with the day on which the direction was given,
- the constable may seize and remove that vehicle.
- (2) In this section, “trespasser” and “vehicle” have the same meaning as in section 61.

### [<sup>F4</sup>62A Power to remove trespassers: alternative site available

- (1) If the senior police officer present at a scene reasonably believes that the conditions in subsection (2) are satisfied in relation to a person and land, he may direct the person—
- (a) to leave the land;
  - (b) to remove any vehicle and other property he has with him on the land.
- (2) The conditions are—
- (a) that the person and one or more others (“the trespassers”) are trespassing on the land;
  - (b) that the trespassers have between them at least one vehicle on the land;
  - (c) that the trespassers are present on the land with the common purpose of residing there for any period;
  - (d) if it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans;

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- (e) that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.
- (3) A direction under subsection (1) may be communicated to the person to whom it applies by any constable at the scene.
- (4) Subsection (5) applies if—
- (a) a police officer proposes to give a direction under subsection (1) in relation to a person and land, and
  - (b) it appears to him that the person has one or more caravans in his possession or under his control on the land.
- (5) The officer must consult every local authority within whose area the land is situated as to whether there is a suitable pitch for the caravan or each of the caravans on a relevant caravan site which is situated in the local authority's area.
- (6) In this section—
- “caravan” and “caravan site” have the same meanings as in Part 1 of the Caravan Sites and Control of Development Act 1960;
- “relevant caravan site” means a caravan site which is—
- (a) situated in the area of a local authority within whose area the land is situated, and
  - (b) managed by a relevant site manager;
- “relevant site manager” means—
- (a) a local authority within whose area the land is situated;
  - (b) a registered social landlord;
- “registered social landlord” means a body registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996.
- (7) The Secretary of State may by order amend the definition of “relevant site manager” in subsection (6) by adding a person or description of person.
- (8) An order under subsection (7) must be made by statutory instrument and is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F4** S. 62A inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 60, 93; S.I. 2003/3300, art. 3(b)

#### [<sup>F5</sup>62B Failure to comply with direction under section 62A: offences

- (1) A person commits an offence if he knows that a direction under section 62A(1) has been given which applies to him and—
- (a) he fails to leave the relevant land as soon as reasonably practicable, or
  - (b) he enters any land in the area of the relevant local authority as a trespasser before the end of the relevant period with the intention of residing there.
- (2) The relevant period is the period of 3 months starting with the day on which the direction is given.

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- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.
- (4) <sup>F6</sup> .....
- (5) In proceedings for an offence under this section it is a defence for the accused to show—
- (a) that he was not trespassing on the land in respect of which he is alleged to have committed the offence, or
  - (b) that he had a reasonable excuse—
    - (i) for failing to leave the relevant land as soon as reasonably practicable, or
    - (ii) for entering land in the area of the relevant local authority as a trespasser with the intention of residing there, or
  - (c) that, at the time the direction was given, he was under the age of 18 years and was residing with his parent or guardian.]

**Textual Amendments**

**F5** S. 62B inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 61, 93; S.I. 2003/3300, art. 3(b)

**F6** S. 62B(4) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(2), Sch. 17; S.I. 2005/3495, {2(1)(u)(xxxvi)} (subject to art. 2(2))

**[<sup>F7</sup>62C Failure to comply with direction under section 62A: seizure**

- (1) This section applies if a direction has been given under section 62A(1) and a constable reasonably suspects that a person to whom the direction applies has, without reasonable excuse—
- (a) failed to remove any vehicle on the relevant land which appears to the constable to belong to him or to be in his possession or under his control; or
  - (b) entered any land in the area of the relevant local authority as a trespasser with a vehicle before the end of the relevant period with the intention of residing there.
- (2) The relevant period is the period of 3 months starting with the day on which the direction is given.
- (3) The constable may seize and remove the vehicle.]

**Textual Amendments**

**F7** S. 62C inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 62(1), 93; S.I. 2003/3300, art. 3(b)

**[<sup>F8</sup>62D Common land: modifications**

- (1) In their application to common land sections 62A to 62C have effect with these modifications.

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- (2) References to trespassing and trespassers have effect as if they were references to acts, and persons doing acts, which constitute—
  - (a) a trespass as against the occupier, or
  - (b) an infringement of the commoners' rights.
- (3) References to the occupier—
  - (a) in the case of land to which the public has access, include the local authority and any commoner;
  - (b) in any other case, include the commoners or any of them.
- (4) Subsection (1) does not—
  - (a) require action by more than one occupier, or
  - (b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.
- (5) In this section “common land”, “commoner” and “the local authority” have the meanings given by section 61.]

#### Textual Amendments

**F8** S. 62D inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 63, 93; S.I. 2003/3300, art. 3(b)

#### [<sup>F9</sup>62E Sections 62A to 62D: interpretation

- (1) Subsections (2) to (8) apply for the interpretation of sections 62A to 62D and this section.
- (2) “Land” does not include buildings other than—
  - (a) agricultural buildings within the meaning of paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988, or
  - (b) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979.
- (3) “Local authority” means—
  - (a) in Greater London, a London borough or the Common Council of the City of London;
  - (b) in England outside Greater London, a county council, a district council or the Council of the Isles of Scilly;
  - (c) in Wales, a county council or a county borough council.
- (4) “Occupier”, “trespass”, “trespassing” and “trespasser” have the meanings given by section 61 in relation to England and Wales.
- (5) “The relevant land” means the land in respect of which a direction under section 62A(1) is given.
- (6) “The relevant local authority” means—
  - (a) if the relevant land is situated in the area of more than one local authority (but is not in the Isles of Scilly), the district council or county borough council within whose area the relevant land is situated;

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- (b) if the relevant land is situated in the Isles of Scilly, the Council of the Isles of Scilly;
  - (c) in any other case, the local authority within whose area the relevant land is situated.
- (7) “Vehicle” has the meaning given by section 61.
- (8) A person may be regarded as having a purpose of residing in a place even if he has a home elsewhere.]

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#### **Textual Amendments**

**F9** S. 62E inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 64, 93; S.I. 2003/3300, art. 3(b)



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