



# Public Order Act 2023

## 2023 CHAPTER 15

### PART 1

#### PUBLIC ORDER

VALID FROM 02/07/2023

#### *Offences relating to tunnelling*

### **3 Offence of causing serious disruption by tunnelling**

- (1) A person commits an offence if—
  - (a) they create, or participate in the creation of, a tunnel,
  - (b) the creation or existence of the tunnel causes, or is capable of causing, serious disruption to—
    - (i) two or more individuals, or
    - (ii) an organisation,in a place other than a dwelling, and
  - (c) they intend the creation or existence of the tunnel to have a consequence mentioned in paragraph (b) or are reckless as to whether its creation or existence will have such a consequence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for creating, or participating in the creation of, the tunnel.
- (3) Without prejudice to the generality of subsection (2), a person is to be treated as having a reasonable excuse for the purposes of that subsection if the creation of the tunnel was authorised by a person with an interest in land which entitled them to authorise its creation.
- (4) A person who commits an offence under subsection (1) is liable—

*Status: Point in time view as at 02/05/2023. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Public Order Act 2023, Cross Heading: Offences relating to tunnelling. (See end of Document for details)*

- (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court, to a fine or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years, to a fine or to both.
- (5) For the purposes of this section—
- (a) “tunnel” means an excavation that extends beneath land, whether or not—
    - (i) it is big enough to permit the entry or passage of an individual, or
    - (ii) it leads to a particular destination;
  - (b) an excavation which is created with the intention that it will become or connect with a tunnel is to be treated as a tunnel, whether or not—
    - (i) any tunnel with which it is intended to connect has already been created, or
    - (ii) it is big enough to permit the entry or passage of an individual.
- (6) References in this section to the creation of an excavation include—
- (a) the extension or enlargement of an excavation, and
  - (b) the alteration of a natural or artificial underground feature.
- (7) This section does not apply in relation to a tunnel if or to the extent that it is in or under a dwelling.
- (8) In this section “dwelling” has the same meaning as in section 1 (offence of locking on).

#### Commencement Information

**II** S. 3 not in force at Royal Assent, see [s. 35\(5\)](#)

#### **4 Offence of causing serious disruption by being present in a tunnel**

- (1) A person commits an offence if—
- (a) they are present in a relevant tunnel having entered it after the coming into force of this section,
  - (b) their presence in the tunnel causes, or is capable of causing, serious disruption to—
    - (i) two or more individuals, or
    - (ii) an organisation,
 in a place other than a dwelling, and
  - (c) they intend their presence in the tunnel to have a consequence mentioned in paragraph (b) or are reckless as to whether their presence there will have such a consequence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for their presence in the tunnel.
- (3) Without prejudice to the generality of subsection (2), a person (“P”) is to be treated as having a reasonable excuse for the purposes of that subsection if P’s presence in the tunnel was authorised by a person with an interest in land which entitled them to authorise P’s presence there.

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- (4) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court, to a fine or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years, to a fine or to both.
- (5) For the purposes of this section—
- (a) “tunnel” means an excavation that extends beneath land, whether or not it leads to a particular destination;
  - (b) an excavation which is created with the intention that it will become or connect with a tunnel is to be treated as a tunnel, whether or not any tunnel with which it is intended to connect has already been created.
- (6) In this section “relevant tunnel” means a tunnel that was created for the purposes of, or in connection with, a protest (and it does not matter whether an offence has been committed under [section 3](#) in relation to the creation of the tunnel).
- (7) References in this section to the creation of an excavation include—
- (a) the extension or enlargement of an excavation, and
  - (b) the alteration of a natural or artificial underground feature.
- (8) This section does not apply in relation to a tunnel if or to the extent that it is in or under a dwelling.
- (9) In this section “dwelling” has the same meaning as in [section 1](#) (offence of locking on).

#### Commencement Information

**I2** S. 4 not in force at Royal Assent, see [s. 35\(5\)](#)

## 5 Offence of being equipped for tunnelling etc

- (1) A person commits an offence if they have an object with them in a place other than a dwelling with the intention that it may be used in the course of or in connection with the commission by any person of an offence under [section 3\(1\)](#) or [4\(1\)](#) (offences relating to tunnelling).
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences, to a fine or to both.
- (3) In subsection (2), “the maximum term for summary offences” means—
- (a) if the offence is committed before the time when [section 281\(5\)](#) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales) comes into force, six months;
  - (b) if the offence is committed after that time, 51 weeks.
- (4) In this section “dwelling” has the same meaning as in [section 1](#) (offence of locking on).

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**Changes to legislation:** There are currently no known outstanding effects for the Public Order Act 2023, Cross Heading: Offences relating to tunnelling. (See end of Document for details)

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### Commencement Information

**I3** S. 5 not in force at Royal Assent, see [s. 35\(5\)](#)

**Status:**

Point in time view as at 02/05/2023. This version of this cross heading contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Public Order Act 2023, Cross Heading: Offences relating to tunnelling.