



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.
- (5) 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 Commons Registration Act 1965;
- “commoner” means a person with rights of common as defined in section 22 of the Commons Registration Act 1965;
- “land” does not include—
- (a) buildings other than—
 - (i) agricultural buildings within the meaning of, in England and Wales, paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988 or, in Scotland, section 7(2) of the Valuation and Rating (Scotland) Act 1956, or
 - (ii) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;
 - (b) land forming part of—
 - (i) a highway unless it falls within the classifications in section 54 of the Wildlife and Countryside Act 1981 (footpath, bridleway or byway open to all traffic or road used as a public path) or is

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a cycle track under the Highways Act 1980 or the Cycle Tracks Act 1984; or

- (ii) a road within the meaning of the 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 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 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 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.

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.

Status: This is the original version (as it was originally enacted).

Powers in relation to raves

63 Powers to remove persons attending or preparing for a rave

- (1) This section applies to a gathering on land in the open air of 100 or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions) and is such as, by reason of its loudness and duration and the time at which it is played, is likely to cause serious distress to the inhabitants of the locality; and for this purpose—
 - (a) such a gathering continues during intermissions in the music and, where the gathering extends over several days, throughout the period during which amplified music is played at night (with or without intermissions); and
 - (b) “music” includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.
- (2) If, as respects any land in the open air, a police officer of at least the rank of superintendent reasonably believes that—
 - (a) two or more persons are making preparations for the holding there of a gathering to which this section applies,
 - (b) ten or more persons are waiting for such a gathering to begin there, or
 - (c) ten or more persons are attending such a gathering which is in progress,
 he may give a direction that those persons and any other persons who come to prepare or wait for or to attend the gathering are to leave the land and remove any vehicles or other property which they have with them on the land.
- (3) A direction under subsection (2) above, if not communicated to the persons referred to in subsection (2) by the police officer giving the direction, may be communicated to them by any constable at the scene.
- (4) Persons shall be treated as having had a direction under subsection (2) above communicated to them if reasonable steps have been taken to bring it to their attention.
- (5) A direction under subsection (2) above does not apply to an exempt person.
- (6) If a person knowing that a direction 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 within the period of 7 days 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.
- (7) In proceedings for an offence under this section it is a defence for the accused to show 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.
- (8) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.
- (9) This section does not apply—
 - (a) in England and Wales, to a gathering licensed by an entertainment licence; or

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- (b) in Scotland, to a gathering in premises which, by virtue of section 41 of the Civic Government (Scotland) Act 1982, are licensed to be used as a place of public entertainment.

(10) In this section—

“entertainment licence” means a licence granted by a local authority under—

- (a) Schedule 12 to the London Government Act 1963;
- (b) section 3 of the Private Places of Entertainment (Licensing) Act 1967; or
- (c) Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982;

“exempt person”, in relation to land (or any gathering on land), means the occupier, any member of his family and any employee or agent of his and any person whose home is situated on the land;

“land in the open air” includes a place partly open to the air;

“local authority” means—

- (a) in Greater London, a London borough council or the Common Council of the City of London;
- (b) in England outside Greater London, a district council or the council of the Isles of Scilly;
- (c) in Wales, a county council or county borough council; and

“occupier”, “trespasser” and “vehicle” have the same meaning as in section 61.

(11) Until 1st April 1996, in this section “local authority” means, in Wales, a district council.

64 Supplementary powers of entry and seizure

(1) If a police officer of at least the rank of superintendent reasonably believes that circumstances exist in relation to any land which would justify the giving of a direction under section 63 in relation to a gathering to which that section applies he may authorise any constable to enter the land for any of the purposes specified in subsection (2) below.

(2) Those purposes are—

- (a) to ascertain whether such circumstances exist; and
- (b) to exercise any power conferred on a constable by section 63 or subsection (4) below.

(3) A constable who is so authorised to enter land for any purpose may enter the land without a warrant.

(4) If a direction has been given under section 63 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—

- (a) failed to remove any vehicle or sound equipment 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 or sound equipment within the period of 7 days beginning with the day on which the direction was given,

the constable may seize and remove that vehicle or sound equipment.

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(5) Subsection (4) above does not authorise the seizure of any vehicle or sound equipment of an exempt person.

(6) In this section—

“exempt person” has the same meaning as in section 63;

“sound equipment” means equipment designed or adapted for amplifying music and any equipment suitable for use in connection with such equipment, and “music” has the same meaning as in section 63; and

“vehicle” has the same meaning as in section 61.

65 Raves: power to stop persons from proceeding

(1) If a constable in uniform reasonably believes that a person is on his way to a gathering to which section 63 applies in relation to which a direction under section 63(2) is in force, he may, subject to subsections (2) and (3) below—

(a) stop that person, and

(b) direct him not to proceed in the direction of the gathering.

(2) The power conferred by subsection (1) above may only be exercised at a place within 5 miles of the boundary of the site of the gathering.

(3) No direction may be given under subsection (1) above to an exempt person.

(4) If a person knowing that a direction under subsection (1) above has been given to him fails to comply with that direction, he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) 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 this section, “exempt person” has the same meaning as in section 63.

66 Power of court to forfeit sound equipment

(1) Where a person is convicted of an offence under section 63 in relation to a gathering to which that section applies and the court is satisfied that any sound equipment which has been seized from him under section 64(4), or which was in his possession or under his control at the relevant time, has been used at the gathering the court may make an order for forfeiture under this subsection in respect of that property.

(2) The court may make an order under subsection (1) above whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in any enactment.

(3) In considering whether to make an order under subsection (1) above in respect of any property a court shall have regard—

(a) to the value of the property; and

(b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(4) An order under subsection (1) above shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.

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- (5) Except in a case to which subsection (6) below applies, where any property has been forfeited under subsection (1) above, a magistrates' court may, on application by a claimant of the property, other than the offender from whom it was forfeited under subsection (1) above, make an order for delivery of the property to the applicant if it appears to the court that he is the owner of the property.
- (6) In a case where forfeiture under subsection (1) above has been by order of a Scottish court, a claimant such as is mentioned in subsection (5) above may, in such manner as may be prescribed by act of adjournal, apply to that court for an order for the return of the property in question.
- (7) No application shall be made under subsection (5), or by virtue of subsection (6), above by any claimant of the property after the expiration of 6 months from the date on which an order under subsection (1) above was made in respect of the property.
- (8) No such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the property or that he did not know, and had no reason to suspect, that the property was likely to be used at a gathering to which section 63 applies.
- (9) An order under subsection (5), or by virtue of subsection (6), above shall not affect the right of any person to take, within the period of 6 months from the date of an order under subsection (5), or as the case may be by virtue of subsection (6), above, proceedings for the recovery of the property from the person in possession of it in pursuance of the order, but on the expiration of that period the right shall cease.
- (10) The Secretary of State may make regulations for the disposal of property, and for the application of the proceeds of sale of property, forfeited under subsection (1) above where no application by a claimant of the property under subsection (5), or by virtue of subsection (6), above has been made within the period specified in subsection (7) above or no such application has succeeded.
- (11) The regulations may also provide for the investment of money and for the audit of accounts.
- (12) The power to make regulations under subsection (10) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) In this section—
 - “relevant time”, in relation to a person—
 - (a) convicted in England and Wales of an offence under section 63, means the time of his arrest for the offence or of the issue of a summons in respect of it;
 - (b) so convicted in Scotland, means the time of his arrest for, or of his being cited as an accused in respect of, the offence;
 - “sound equipment” has the same meaning as in section 64.

Status: This is the original version (as it was originally enacted).

Retention and charges for seized property

67 Retention and charges for seized property

- (1) Any vehicles which have been seized and removed by a constable under section 62(1) or 64(4) may be retained in accordance with regulations made by the Secretary of State under subsection (3) below.
- (2) Any sound equipment which has been seized and removed by a constable under section 64(4) may be retained until the conclusion of proceedings against the person from whom it was seized for an offence under section 63.
- (3) The Secretary of State may make regulations—
 - (a) regulating the retention and safe keeping and the disposal and the destruction in prescribed circumstances of vehicles; and
 - (b) prescribing charges in respect of the removal, retention, disposal and destruction of vehicles.
- (4) Any authority shall be entitled to recover from a person from whom a vehicle has been seized such charges as may be prescribed in respect of the removal, retention, disposal and destruction of the vehicle by the authority.
- (5) Regulations under subsection (3) above may make different provisions for different classes of vehicles or for different circumstances.
- (6) Any charges under subsection (4) above shall be recoverable as a simple contract debt.
- (7) Any authority having custody of vehicles under regulations under subsection (3) above shall be entitled to retain custody until any charges under subsection (4) are paid.
- (8) The power to make regulations under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section—

“conclusion of proceedings” against a person means—

 - (a) his being sentenced or otherwise dealt with for the offence or his acquittal;
 - (b) the discontinuance of the proceedings; or
 - (c) the decision not to prosecute him,

whichever is the earlier;

“sound equipment” has the same meaning as in section 64; and

“vehicle” has the same meaning as in section 61.

Disruptive trespassers

68 Offence of aggravated trespass

- (1) A person commits the offence of aggravated trespass if he trespasses on land in the open air and, in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land in the open air, does there anything which is intended by him to have the effect—

- (a) of intimidating those persons or any of them so as to deter them or any of them from engaging in that activity,
 - (b) of obstructing that activity, or
 - (c) of disrupting that activity.
- (2) Activity on any occasion on the part of a person or persons on land is “lawful” for the purposes of this section if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.
- (3) A person guilty of an offence under this section 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.
- (4) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.
- (5) In this section “land” does not include—
- (a) the highways and roads excluded from the application of section 61 by paragraph (b) of the definition of “land” in subsection (9) of that section; or
 - (b) a road within the meaning of the Roads (Northern Ireland) Order 1993.

69 Powers to remove persons committing or participating in aggravated trespass

- (1) If the senior police officer present at the scene reasonably believes—
- (a) that a person is committing, has committed or intends to commit the offence of aggravated trespass on land in the open air; or
 - (b) that two or more persons are trespassing on land in the open air and are present there with the common purpose of intimidating persons so as to deter them from engaging in a lawful activity or of obstructing or disrupting a lawful activity,
- he may direct that person or (as the case may be) those persons (or any of them) to leave the land.
- (2) 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.
- (3) 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 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.
- (4) In proceedings for an offence under subsection (3) 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 practicable or, as the case may be, for again entering the land as a trespasser.

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- (5) 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 this section “lawful activity” and “land” have the same meaning as in section 68.

Trespassory assemblies

70 **Trespassory assemblies**

In Part II of the Public Order Act 1986 (processions and assemblies), after section 14, there shall be inserted the following sections—

“14A Prohibiting trespassory assemblies

- (1) If at any time the chief officer of police reasonably believes that an assembly is intended to be held in any district at a place on land to which the public has no right of access or only a limited right of access and that the assembly—
- (a) is likely to be held without the permission of the occupier of the land or to conduct itself in such a way as to exceed the limits of any permission of his or the limits of the public’s right of access, and
 - (b) may result—
 - (i) in serious disruption to the life of the community, or
 - (ii) where the land, or a building or monument on it, is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument,
 he may apply to the council of the district for an order prohibiting for a specified period the holding of all trespassory assemblies in the district or a part of it, as specified.
- (2) On receiving such an application, a council may—
- (a) in England and Wales, with the consent of the Secretary of State make an order either in the terms of the application or with such modifications as may be approved by the Secretary of State; or
 - (b) in Scotland, make an order in the terms of the application.
- (3) Subsection (1) does not apply in the City of London or the metropolitan police district.
- (4) If at any time the Commissioner of Police for the City of London or the Commissioner of Police of the Metropolis reasonably believes that an assembly is intended to be held at a place on land to which the public has no right of access or only a limited right of access in his police area and that the assembly—
- (a) is likely to be held without the permission of the occupier of the land or to conduct itself in such a way as to exceed the limits of any permission of his or the limits of the public’s right of access, and
 - (b) may result—
 - (i) in serious disruption to the life of the community, or
 - (ii) where the land, or a building or monument on it, is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument,

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he may with the consent of the Secretary of State make an order prohibiting for a specified period the holding of all trespassory assemblies in the area or a part of it, as specified.

- (5) An order prohibiting the holding of trespassory assemblies operates to prohibit any assembly which—
- (a) is held on land to which the public has no right of access or only a limited right of access, and
 - (b) takes place in the prohibited circumstances, that is to say, without the permission of the occupier of the land or so as to exceed the limits of any permission of his or the limits of the public's right of access.
- (6) No order under this section shall prohibit the holding of assemblies for a period exceeding 4 days or in an area exceeding an area represented by a circle with a radius of 5 miles from a specified centre.
- (7) An order made under this section may be revoked or varied by a subsequent order made in the same way, that is, in accordance with subsection (1) and (2) or subsection (4), as the case may be.
- (8) Any order under this section shall, if not made in writing, be recorded in writing as soon as practicable after being made.
- (9) In this section and sections 14B and 14C—
- “assembly” means an assembly of 20 or more persons;
 - “land” means land in the open air;
 - “limited”, in relation to a right of access by the public to land, means that their use of it is restricted to use for a particular purpose (as in the case of a highway or road) or is subject to other restrictions;
 - “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; or
 - (b) in Scotland, the person lawfully entitled to natural possession of the land,
- and in subsections (1) and (4) includes the person reasonably believed by the authority applying for or making the order to be the occupier;
- “public” includes a section of the public; and
 - “specified” means specified in an order under this section.
- (10) In relation to Scotland, the references in subsection (1) above to a district and to the council of the district shall be construed—
- (a) as respects applications before 1st April 1996, as references to the area of a regional or islands authority and to the authority in question; and
 - (b) as respects applications on and after that date, as references to a local government area and to the council for that area.
- (11) In relation to Wales, the references in subsection (1) above to a district and to the council of the district shall be construed, as respects applications on and after 1st April 1996, as references to a county or county borough and to the council for that county or county borough.

Status: This is the original version (as it was originally enacted).

14B Offences in connection with trespassory assemblies and arrest therefor

- (1) A person who organises an assembly the holding of which he knows is prohibited by an order under section 14A is guilty of an offence.
- (2) A person who takes part in an assembly which he knows is prohibited by an order under section 14A is guilty of an offence.
- (3) In England and Wales, a person who incites another to commit an offence under subsection (2) is guilty of an offence.
- (4) A constable in uniform may arrest without a warrant anyone he reasonably suspects to be committing an offence under this section.
- (5) A person guilty of an offence under subsection (1) 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.
- (6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) A person guilty of an offence under subsection (3) 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, notwithstanding section 45(3) of the Magistrates' Courts Act 1980.
- (8) Subsection (3) above is without prejudice to the application of any principle of Scots Law as respects art and part guilt to such incitement as is mentioned in that subsection.”.

71 Trespassory assemblies: power to stop persons from proceeding

After the section 14B inserted by section 70 in the Public Order Act 1986 there shall be inserted the following section—

“14C Stopping persons from proceeding to trespassory assemblies

- (1) If a constable in uniform reasonably believes that a person is on his way to an assembly within the area to which an order under section 14A applies which the constable reasonably believes is likely to be an assembly which is prohibited by that order, he may, subject to subsection (2) below—
 - (a) stop that person, and
 - (b) direct him not to proceed in the direction of the assembly.
- (2) The power conferred by subsection (1) may only be exercised within the area to which the order applies.
- (3) A person who fails to comply with a direction under subsection (1) which he knows has been given to him is guilty of an offence.
- (4) A constable in uniform may arrest without a warrant anyone he reasonably suspects to be committing an offence under this section.

- (5) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

Squatters

72 Violent entry to premises: special position of displaced residential occupiers and intending occupiers

- (1) Section 6 of the Criminal Law Act 1977 (which penalises violence by a person for securing entry into premises where a person on the premises is opposed and is known to be opposed to entry) shall be amended as follows.
- (2) After subsection (1), there shall be inserted the following subsection—
- “(1A) Subsection (1) above does not apply to a person who is a displaced residential occupier or a protected intending occupier of the premises in question or who is acting on behalf of such an occupier; and if the accused adduces sufficient evidence that he was, or was acting on behalf of, such an occupier he shall be presumed to be, or to be acting on behalf of, such an occupier unless the contrary is proved by the prosecution.”.
- (3) In subsection (2), at the beginning, there shall be inserted the words “Subject to subsection (1A) above,”.
- (4) Subsection (3) (which is superseded by the provision made by subsection (2) above) shall be omitted.
- (5) In subsection (7), at the end, there shall be inserted the words “and section 12A below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a protected intending occupier of any premises or of any access to any premises.”.

73 Adverse occupation of residential premises

For section 7 of the Criminal Law Act 1977 (trespassers failing to leave premises after being requested to do so by specified persons to be guilty of an offence) there shall be substituted the following section—

“7 Adverse occupation of residential premises

- (1) Subject to the following provisions of this section and to section 12A(9) below, any person who is on any premises as a trespasser after having entered as such is guilty of an offence if he fails to leave those premises on being required to do so by or on behalf of—
- a displaced residential occupier of the premises; or
 - an individual who is a protected intending occupier of the premises.
- (2) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he believed that the person requiring him to leave the premises was not a displaced residential occupier or protected intending occupier of the premises or a person acting on behalf of a displaced residential occupier or protected intending occupier.

Status: This is the original version (as it was originally enacted).

- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove—
 - (a) that the premises in question are or form part of premises used mainly for non-residential purposes; and
 - (b) that he was not on any part of the premises used wholly or mainly for residential purposes.
- (4) Any reference in the preceding provisions of this section to any premises includes a reference to any access to them, whether or not any such access itself constitutes premises, within the meaning of this Part of this Act.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (6) A constable in uniform may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, guilty of an offence under this section.
- (7) Section 12 below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a displaced residential occupier of any premises or of any access to any premises and section 12A below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a protected intending occupier of any premises or of any access to any premises.”.

74 Protected intending occupiers: supplementary provisions

After section 12 of the Criminal Law Act 1977 there shall be inserted the following section—

“12A Protected intending occupiers: supplementary provisions

- (1) For the purposes of this Part of this Act an individual is a protected intending occupier of any premises at any time if at that time he falls within subsection (2), (4) or (6) below.
- (2) An individual is a protected intending occupier of any premises if—
 - (a) he has in those premises a freehold interest or a leasehold interest with not less than two years still to run;
 - (b) he requires the premises for his own occupation as a residence;
 - (c) he is excluded from occupation of the premises by a person who entered them, or any access to them, as a trespasser; and
 - (d) he or a person acting on his behalf holds a written statement—
 - (i) which specifies his interest in the premises;
 - (ii) which states that he requires the premises for occupation as a residence for himself; and
 - (iii) with respect to which the requirements in subsection (3) below are fulfilled.
- (3) The requirements referred to in subsection (2)(d)(iii) above are—

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- (a) that the statement is signed by the person whose interest is specified in it in the presence of a justice of the peace or commissioner for oaths; and
 - (b) that the justice of the peace or commissioner for oaths has subscribed his name as a witness to the signature.
- (4) An individual is also a protected intending occupier of any premises if—
- (a) he has a tenancy of those premises (other than a tenancy falling within subsection (2)(a) above or (6)(a) below) or a licence to occupy those premises granted by a person with a freehold interest or a leasehold interest with not less than two years still to run in the premises;
 - (b) he requires the premises for his own occupation as a residence;
 - (c) he is excluded from occupation of the premises by a person who entered them, or any access to them, as a trespasser; and
 - (d) he or a person acting on his behalf holds a written statement—
 - (i) which states that he has been granted a tenancy of those premises or a licence to occupy those premises;
 - (ii) which specifies the interest in the premises of the person who granted that tenancy or licence to occupy (“the landlord”);
 - (iii) which states that he requires the premises for occupation as a residence for himself; and
 - (iv) with respect to which the requirements in subsection (5) below are fulfilled.
- (5) The requirements referred to in subsection (4)(d)(iv) above are—
- (a) that the statement is signed by the landlord and by the tenant or licensee in the presence of a justice of the peace or commissioner for oaths;
 - (b) that the justice of the peace or commissioner for oaths has subscribed his name as a witness to the signatures.
- (6) An individual is also a protected intending occupier of any premises if—
- (a) he has a tenancy of those premises (other than a tenancy falling within subsection (2)(a) or (4)(a) above) or a licence to occupy those premises granted by an authority to which this subsection applies;
 - (b) he requires the premises for his own occupation as a residence;
 - (c) he is excluded from occupation of the premises by a person who entered the premises, or any access to them, as a trespasser; and
 - (d) there has been issued to him by or on behalf of the authority referred to in paragraph (a) above a certificate stating that—
 - (i) he has been granted a tenancy of those premises or a licence to occupy those premises as a residence by the authority; and
 - (ii) the authority which granted that tenancy or licence to occupy is one to which this subsection applies, being of a description specified in the certificate.
- (7) Subsection (6) above applies to the following authorities—
- (a) any body mentioned in section 14 of the Rent Act 1977 (landlord’s interest belonging to local authority etc.);
 - (b) the Housing Corporation;
 - (c) Housing for Wales; and

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- (d) a registered housing association within the meaning of the Housing Associations Act 1985.
- (8) A person is guilty of an offence if he makes a statement for the purposes of subsection (2)(d) or (4)(d) above which he knows to be false in a material particular or if he recklessly makes such a statement which is false in a material particular.
- (9) In any proceedings for an offence under section 7 of this Act where the accused was requested to leave the premises by a person claiming to be or to act on behalf of a protected intending occupier of the premises—
 - (a) it shall be a defence for the accused to prove that, although asked to do so by the accused at the time the accused was requested to leave, that person failed at that time to produce to the accused such a statement as is referred to in subsection (2)(d) or (4)(d) above or such a certificate as is referred to in subsection (6)(d) above; and
 - (b) any document purporting to be a certificate under subsection (6)(d) above shall be received in evidence and, unless the contrary is proved, shall be deemed to have been issued by or on behalf of the authority stated in the certificate.
- (10) A person guilty of an offence under subsection (8) above shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (11) A person who is a protected intending occupier of any premises shall be regarded for the purposes of this Part of this Act as a protected intending occupier also of any access to those premises.”.

75 Interim possession orders: false or misleading statements

- (1) A person commits an offence if, for the purpose of obtaining an interim possession order, he—
 - (a) makes a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly makes a statement which is false or misleading in a material particular.
- (2) A person commits an offence if, for the purpose of resisting the making of an interim possession order, he—
 - (a) makes a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly makes a statement which is false or misleading in a material particular.
- (3) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (4) In this section—

Status: This is the original version (as it was originally enacted).

“interim possession order” means an interim possession order (so entitled) made under rules of court for the bringing of summary proceedings for possession of premises which are occupied by trespassers;

“premises” has the same meaning as in Part II of the Criminal Law Act 1977 (offences relating to entering and remaining on property); and

“statement”, in relation to an interim possession order, means any statement, in writing or oral and whether as to fact or belief, made in or for the purposes of the proceedings.

76 Interim possession orders: trespassing during currency of order

- (1) This section applies where an interim possession order has been made in respect of any premises and served in accordance with rules of court; and references to “the order” and “the premises” shall be construed accordingly.
- (2) Subject to subsection (3), a person who is present on the premises as a trespasser at any time during the currency of the order commits an offence.
- (3) No offence under subsection (2) is committed by a person if—
 - (a) he leaves the premises within 24 hours of the time of service of the order and does not return; or
 - (b) a copy of the order was not fixed to the premises in accordance with rules of court.
- (4) A person who was in occupation of the premises at the time of service of the order but leaves them commits an offence if he re-enters the premises as a trespasser or attempts to do so after the expiry of the order but within the period of one year beginning with the day on which it was served.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.
- (6) A person who is in occupation of the premises at the time of service of the order shall be treated for the purposes of this section as being present as a trespasser.
- (7) A constable in uniform may arrest without a warrant anyone who is, or whom he reasonably suspects to be, guilty of an offence under this section.
- (8) In this section—

“interim possession order” has the same meaning as in section 75 above and “rules of court” is to be construed accordingly; and

“premises” has the same meaning as in that section, that is to say, the same meaning as in Part II of the Criminal Law Act 1977 (offences relating to entering and remaining on property).

Powers to remove unauthorised campers

77 Power of local authority to direct unauthorised campers to leave land

- (1) If it appears to a local authority that persons are for the time being residing in a vehicle or vehicles within that authority’s area—
 - (a) on any land forming part of a highway;

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- (b) on any other unoccupied land; or
 - (c) on any occupied land without the consent of the occupier,
- the authority may give a direction that those persons and any others with them are to leave the land and remove the vehicle or vehicles and any other property they have with them on the land.
- (2) Notice of a direction under subsection (1) must be served on the persons to whom the direction applies, but it shall be sufficient for this purpose for the direction to specify the land and (except where the direction applies to only one person) to be addressed to all occupants of the vehicles on the land, without naming them.
- (3) If a person knowing that a direction under subsection (1) above has been given which applies to him—
- (a) fails, as soon as practicable, to leave the land or remove from the land any vehicle or other property which is the subject of the direction, or
 - (b) having removed any such vehicle or property again enters the land with a vehicle 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 a fine not exceeding level 3 on the standard scale.
- (4) A direction under subsection (1) operates to require persons who re-enter the land within the said period with vehicles or other property to leave and remove the vehicles or other property as it operates in relation to the persons and vehicles or other property on the land when the direction was given.
- (5) In proceedings for an offence under this section it is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable or his re-entry with a vehicle was due to illness, mechanical breakdown or other immediate emergency.
- (6) In this section—
- “land” means land in the open air;
 - “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;
 - “occupier” person entitled to possession of the land by virtue of an estate or interest held by him;
 - “vehicle” includes—
 - (a) any vehicle, whether or not it is in a fit state for use on roads, and includes any 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 Caravan Sites and Control of Development Act 1960;
- and a person may be regarded for the purposes of this section as residing on any land notwithstanding that he has a home elsewhere.

- (7) Until 1st April 1996, in this section “local authority” means, in Wales, a county council or a district council.

78 Orders for removal of persons and their vehicles unlawfully on land

- (1) A magistrates' court may, on a complaint made by a local authority, if satisfied that persons and vehicles in which they are residing are present on land within that authority's area in contravention of a direction given under section 77, make an order requiring the removal of any vehicle or other property which is so present on the land and any person residing in it.
- (2) An order under this section may authorise the local authority to take such steps as are reasonably necessary to ensure that the order is complied with and, in particular, may authorise the authority, by its officers and servants—
- (a) to enter upon the land specified in the order; and
 - (b) to take, in relation to any vehicle or property to be removed in pursuance of the order, such steps for securing entry and rendering it suitable for removal as may be so specified.
- (3) The local authority shall not enter upon any occupied land unless they have given to the owner and occupier at least 24 hours notice of their intention to do so, or unless after reasonable inquiries they are unable to ascertain their names and addresses.
- (4) A person who wilfully obstructs any person in the exercise of any power conferred on him by an order under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Where a complaint is made under this section, a summons issued by the court requiring the person or persons to whom it is directed to appear before the court to answer to the complaint may be directed—
- (a) to the occupant of a particular vehicle on the land in question; or
 - (b) to all occupants of vehicles on the land in question, without naming him or them.
- (6) Section 55(2) of the Magistrates' Courts Act 1980 (warrant for arrest of defendant failing to appear) does not apply to proceedings on a complaint made under this section.
- (7) Section 77(6) of this Act applies also for the interpretation of this section.

79 Provisions as to directions under s. 77 and orders under s. 78

- (1) The following provisions apply in relation to the service of notice of a direction under section 77 and of a summons under section 78, referred to in those provisions as a “relevant document”
- (2) Where it is impracticable to serve a relevant document on a person named in it, the document shall be treated as duly served on him if a copy of it is fixed in a prominent place to the vehicle concerned; and where a relevant document is directed to the unnamed occupants of vehicles, it shall be treated as duly served on those occupants if a copy of it is fixed in a prominent place to every vehicle on the land in question at the time when service is thus effected.

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- (3) A local authority shall take such steps as may be reasonably practicable to secure that a copy of any relevant document is displayed on the land in question (otherwise than by being fixed to a vehicle) in a manner designed to ensure that it is likely to be seen by any person camping on the land.
- (4) Notice of any relevant document shall be given by the local authority to the owner of the land in question and to any occupier of that land unless, after reasonable inquiries, the authority is unable to ascertain the name and address of the owner or occupier; and the owner of any such land and any occupier of such land shall be entitled to appear and to be heard in the proceedings.
- (5) Section 77(6) applies also for the interpretation of this section.

80 Repeal of certain provisions relating to gipsy sites

- (1) Part II of the Caravan Sites Act 1968 (duty of local authorities to provide sites for gipsies and control of unauthorised encampments) together with the definition in section 16 of that Act of “gipsies” is hereby repealed.
- (2) In section 24 of the Caravan Sites and Control of Development Act 1960 (power to provide sites for caravans)—
 - (a) in subsection (2), after paragraph (b) there shall be inserted the following—
 - “, or
 - (c) to provide, in or in connection with sites for the accommodation of gipsies, working space and facilities for the carrying on of such activities as are normally carried on by them,”; and
 - (b) in subsection (8), at the end, there shall be inserted the words “and “gipsies” means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen, or persons engaged in travelling circuses, travelling together as such.
- (3) The repeal by subsection (1) above of section 8 of the said Act of 1968 shall not affect the validity of directions given under subsection (3)(a) of that section; and in the case of directions under subsection (3)(c), the council may elect either to withdraw the application or request the Secretary of State to determine the application and if they so request the application shall be treated as referred to him under section 77 of the Town and Country Planning Act 1990.
- (4) The repeal by subsection (1) above of the definition of “gipsies” in section 16 of the said Act of 1968 shall not affect the interpretation of that word in the definition of “protected site” in section 5(1) of the Mobile Homes Act 1983 or in any document embodying the terms of any planning permission granted under the Town and Country Planning Act 1990 before the commencement of this section.
- (5) Section 70 of the Local Government, Planning and Land Act 1980 (power to pay grant to local authorities in respect of capital expenditure in providing gipsy caravan sites) is hereby repealed so far as it extends to England and Wales except for the purposes of applications for grant received by the Secretary of State before the commencement of this section.