

ANTI-SOCIAL BEHAVIOUR ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Public Order and Trespass

Section 57: Public assemblies

122. Section 14 of the Public Order Act 1986 gives a senior police officer power to impose conditions on public assemblies. Before doing so, he must reasonably believe that serious public disorder, serious damage to property or serious disruption to the life of the community might result, or that the purpose of a demonstration is the intimidation of others with a view to compelling them to act in a particular way. Conditions include the location of the assembly, its maximum duration or the maximum number of persons who may constitute it. At present these provisions only apply to groups of 20 or more persons.
123. **Section 57** amends the definition of public assembly in section 16 of the Public Order Act 1986 from “20 or more persons” to “2 or more persons” so that the powers in that Act to impose conditions on public assemblies apply to groups of two or more people. The requirement for a senior officer to hold beliefs described in the previous paragraph is unchanged.
124. The section would not affect peaceful picketing by members of a trade union at their place of work. Picketing is protected by section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 which makes lawful certain activities done for the purpose of peacefully obtaining or communicating information or of peacefully persuading a person to work or not to work.

Section 58: Raves

125. **Section 58** amends section 63 of the Criminal Justice and Public Order Act 1994 (the 1994 Act) to extend it to cover raves where 20 or more persons are present. At present, section 63 of the 1994 Act only applies to raves where 100 or more persons are present.
126. **Subsection (3)** extends section 63 of the 1994 Act to cover raves in buildings, if those attending the rave are trespassing.
127. **Subsection (6)** makes it an offence for a person to make preparations for or attend a rave within 24 hours of being given a direction under section 63(2) of the 1994 Act to leave land where the person was attending or preparing for another rave. The offence is summary and the maximum penalty is 3 months imprisonment or a level 4 fine (or both).

Section 59: Aggravated trespass

128. **Section 59** amends sections 68 and 69 of the Criminal Justice and Public Order Act 1994 (the 1994 Act) to extend provisions relating to the offence of aggravated trespass to cover trespass in buildings, as well as in the open air. The result is that the offence of aggravated trespass will be constituted where a person trespassing, whether in a building

or in the open air, does anything which is intended to intimidate or deter persons from engaging in a lawful activity, or to obstruct or disrupt that activity.

129. The amended provisions might be used in respect of activists who invade the building of a targeted company with the intention of conducting an intimidating and disruptive protest. *Subsection (2)* amends section 68 by removing the words “in the open air” so that the offence in section 68 of the 1994 Act becomes aggravated trespass on land. *Subsection (3)* amends section 69 of the 1994 Act by removing the words “in the open air” so that where a senior officer reasonably believes that a person or persons are committing or participating in aggravated trespass he may direct them to leave the land. Land is defined in the Interpretation Act 1978 so as to include buildings.

Section 60: Power to remove trespassers: alternative site available

130. This section inserts a new section 62A into the Criminal Justice and Public Order Act 1994 so as to create a new power for a senior police officer to direct a person to leave land and remove any vehicle or other property with him on that land. *Subsection (2)* sets out the conditions that the senior police officer must believe to be satisfied before he can give a direction to leave the land to a person. At least two persons must be trespassing on land; they must have between them at least one vehicle; they must be present on the land with the intent of residing there; and the occupier of the land must have asked the police to remove them. In addition, it must appear to the senior police officer, after consultation with the local authority, that there are relevant caravan sites with suitable pitches available for the trespassers to move to. *Subsections (6) and (7)* enable the Secretary of State to make an order subject to the negative resolution procedure to change the definition of ‘relevant site manager’.

Section 61: Failure to comply with direction: offences

131. This section inserts a new section 62B into the 1994 Act. Its effect is that a person commits an offence if he fails to comply with a direction given under section 62A, or if, within 3 months of the direction being given, he returns to any land in the area of the relevant local authority as a trespasser with the intention of residing there. The maximum penalty is 3 months imprisonment or a level 4 fine (or both). *Subsection (5)* provides a defence to this offence if the accused was not a trespasser, or had a reasonable excuse for failing to leave or returning to relevant land, or was under 18 and living with his parent or guardian when the direction under section 62A was given.

Section 62: Failure to comply with direction: seizure

132. This section inserts a new section 62C into the 1994 Act. This provides the power for a constable to seize and remove a vehicle, if he reasonably suspects that the person who owns or controls the vehicle has committed an offence under section 62B, and the offence relates to the vehicle in question.

Section 63 and 64: Common land: modifications and interpretation

133. New section 62D of the 1994 Act (inserted by section 63) makes necessary modifications to new sections 62A to 62C of the 1994 Act in their application to common land. New section 62E of the 1994 Act (inserted by section 64) provides for the interpretation of terms used in new sections 62A to 62D of the 1994 Act. Unlike the existing powers in section 61 of the 1994 Act, the definition of “land” includes roads.