



Anti-social Behaviour Act 2003

2003 CHAPTER 38

PART 7

PUBLIC ORDER AND TRESPASS

57 Public assemblies

In section 16 of the Public Order Act 1986 (c. 64) (which defines “public assembly” for the purposes of the power in section 14 of that Act to impose conditions on public assemblies), in the definition of “public assembly” for “20” substitute “2”.

58 Raves

(1) Section 63 of the Criminal Justice and Public Order Act 1994 (c. 33) (powers in relation to raves) is amended as follows.

(2) In subsection (1) for “100” substitute “20”.

(3) After subsection (1) insert—

“(1A) This section also applies to a gathering if—

- (a) it is a gathering on land of 20 or more persons who are trespassing on the land; and
- (b) it would be a gathering of a kind mentioned in subsection (1) above if it took place on land in the open air.”

(4) In subsection (2) omit “in the open air”.

(5) In subsection (7) for “this section” substitute “subsection (6) above”.

(6) After subsection (7) insert—

“(7A) A person commits an offence if—

- (a) he knows that a direction under subsection (2) above has been given which applies to him, and

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- (b) he makes preparations for or attends a gathering to which this section applies within the period of 24 hours starting when the direction was given.

(7B) A person guilty of an offence under subsection (7A) above 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.”

59 Aggravated trespass

- (1) The Criminal Justice and Public Order Act 1994 is amended as follows.
- (2) In section 68 (offence of aggravated trespass), in subsection (1) (which defines the offence by reference to trespass on land in the open air and lawful activity on land in the open air) omit “in the open air” in both places where those words appear.
- (3) In section 69 (powers to remove persons committing or participating in aggravated trespass), in subsection (1) (which confers the power by reference to trespass on land in the open air) omit “in the open air” in both places where those words appear.

60 Power to remove trespassers: alternative site available

After section 62 of the Criminal Justice and Public Order Act 1994 (c. 33) insert—

“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;
 - (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.”

61 Failure to comply with direction: offences

After section 62A of the Criminal Justice and Public Order Act 1994 (c. 33) (inserted by section 60) insert—

“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.
- (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) 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 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

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- (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.”

62 Failure to comply with direction: seizure

- (1) After section 62B of the Criminal Justice and Public Order Act 1994 (inserted by section 61) insert—

“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.”
- (2) In section 67(1) (retention and charges for seized vehicles) after “section 62(1)” insert “, 62C(3)”.

63 Common land: modifications

After section 62C of the Criminal Justice and Public Order Act 1994 (c. 33) (inserted by section 62) insert—

“62D Common land: modifications

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

64 Interpretation

After section 62D of the Criminal Justice and Public Order Act 1994 (inserted by section 63) insert—

“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;
 - (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.”