



# Serious Organised Crime and Police Act 2005

## 2005 CHAPTER 15

### PART 4

#### PUBLIC ORDER AND CONDUCT IN PUBLIC PLACES ETC.

##### *Trespass on designated site*

#### **128 Offence of trespassing on designated site**

- (1) A person commits an offence if he enters, or is on, any [<sup>F1</sup>protected] site in England and Wales or Northern Ireland as a trespasser.

[<sup>F2</sup>(1A) In this section “protected site” means—

- (a) a nuclear site; or
- (b) a designated site.

(1B) In this section “nuclear site” means—

- (a) so much of any premises in respect of which a nuclear site licence (within the meaning of the Nuclear Installations Act 1965) is for the time being in force as lies within the outer perimeter of the protection provided for those premises; and
- (b) so much of any other premises of which premises falling within paragraph (a) form a part as lies within that outer perimeter.

(1C) For this purpose—

- (a) the outer perimeter of the protection provided for any premises is the line of the outermost fences, walls or other obstacles provided or relied on for protecting those premises from intruders; and
- (b) that line shall be determined on the assumption that every gate, door or other barrier across a way through a fence, wall or other obstacle is closed.]

*Status: Point in time view as at 13/04/2006.*

*Changes to legislation: Serious Organised Crime and Police Act 2005, Cross Heading: Trespass on designated site is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) A “designated site” means a site—
- (a) specified or described (in any way) in an order made by the Secretary of State, and
  - (b) designated for the purposes of this section by the order.
- (3) The Secretary of State may only designate a site for the purposes of this section if—
- (a) it is comprised in Crown land; or
  - (b) it is comprised in land belonging to Her Majesty in Her private capacity or to the immediate heir to the Throne in his private capacity; or
  - (c) it appears to the Secretary of State that it is appropriate to designate the site in the interests of national security.
- (4) It is a defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the site in relation to which the offence is alleged to have been committed was a [<sup>F3</sup>protected] site.
- (5) A person guilty of an offence under this section is liable on summary conviction—
- (a) to imprisonment for a term not exceeding 51 weeks, or
  - (b) to a fine not exceeding level 5 on the standard scale,
- or to both.
- (6) No proceedings for an offence under this section may be instituted against any person—
- (a) in England and Wales, except by or with the consent of the Attorney General, or
  - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.
- (7) For the purposes of this section a person who is on any [<sup>F4</sup>protected] site as a trespasser does not cease to be a trespasser by virtue of being allowed time to leave the site.
- (8) In this section—
- (a) “site” means the whole or part of any building or buildings, or any land, or both;
  - (b) “Crown land” means land in which there is a Crown interest or a Duchy interest.
- (9) For this purpose—
- “Crown interest” means an interest belonging to Her Majesty in right of the Crown, and
- “Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.
- (10) In the application of this section to Northern Ireland, the reference to 51 weeks in subsection (5)(a) is to be read as a reference to 6 months.

#### Textual Amendments

**F1** Word in s. 128(1) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(2)**, 39(2); S.I. 2006/1013, art. 2(2)(a)

**F2** S. 128(1A)-(1C) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(3)**, 39(2); S.I. 2006/1013, art. 2(2)(a)

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**F3** Word in s. 128(4) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(2)**, 39(2); S.I. 2006/1013, art. 2(2)(a)

**F4** Word in s. 128(7) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(2)**, 39(2); S.I. 2006/1013, art. 2(2)(a)

**Modifications etc. (not altering text)**

**C1** S. 128 extended (N.I.) (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 130(2)**, 178(8); S.I. 2005/1521, art. 3(1)(n)

**Commencement Information**

**I1** S. 128 in force at 1.7.2005 by [S.I. 2005/1521](#), **art. 3(1)(n)**

## 129 Corresponding Scottish offence

(1) A person commits an offence if he enters, or is on, any [<sup>F5</sup>protected] Scottish site without lawful authority.

[<sup>F6</sup>(1A) In this section ‘protected Scottish site’ means—

- (a) a nuclear site in Scotland; or
- (b) a designated Scottish site.

(1B) In this section ‘nuclear site’ means—

- (a) so much of any premises in respect of which a nuclear site licence (within the meaning of the Nuclear Installations Act 1965) is for the time being in force as lies within the outer perimeter of the protection provided for those premises; and
- (b) so much of any other premises of which premises falling within paragraph (a) form a part as lies within that outer perimeter.

(1C) For this purpose—

- (a) the outer perimeter of the protection provided for any premises is the line of the outermost fences, walls or other obstacles provided or relied on for protecting those premises from intruders; and
- (b) that line shall be determined on the assumption that every gate, door or other barrier across a way through a fence, wall or other obstacle is closed.]

(2) A “designated Scottish site” means a site in Scotland—

- (a) specified or described (in any way) in an order made by the Secretary of State, and
- (b) designated for the purposes of this section by the order.

(3) The Secretary of State may only designate a site for the purposes of this section if it appears to him that it is appropriate to designate the site in the interests of national security.

(4) It is a defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the site in relation to which the offence is alleged to have been committed was a [<sup>F7</sup>protected] Scottish site.

(5) A person guilty of an offence under this section is liable on summary conviction—

- (a) to imprisonment for a term not exceeding 12 months, or
- (b) to a fine not exceeding level 5 on the standard scale,

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or to both.

- (6) For the purposes of subsection (1), a person who is on any [<sup>F8</sup>protected] Scottish site without lawful authority does not acquire lawful authority by virtue of being allowed time to leave the site.
- (7) In this section “site” means the whole or part of any building or buildings, or any land, or both.

#### Textual Amendments

- F5** Word in s. 129(1) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(2)**, 39(2); S.I. 2006/1013, art. 2(2)(a)
- F6** S. 129(1A)-(1C) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(4)**, 39(2); S.I. 2006/1013, art. 2(2)(a)
- F7** Word in s. 129(4) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(2)**, 39(2); S.I. 2006/1013, art. 2(2)(a)
- F8** Word in s. 129(6) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 12(2)**, 39(2); S.I. 2006/1013, art. 2(2)(a)

#### Commencement Information

- I2** S. 129 in force at 1.7.2005 by [S.I. 2005/1521](#), **art. 3(1)(n)**

### 130 Designated sites: powers of arrest

- (1) <sup>F9</sup> ...

This subsection ceases to have effect on the commencement of section 110.

- (2) An offence under section 128 is to be treated as an arrestable offence for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (3) A constable in uniform may, in Scotland, arrest without warrant any person he reasonably suspects is committing or has committed an offence under section 129.

#### Textual Amendments

- F9** S. 130(1) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(ix)

#### Commencement Information

- I3** S. 130 in force at 1.7.2005 by [S.I. 2005/1521](#), **art. 3(1)(n)**

### 131 Designated sites: access

- (1) The following provisions do not apply to land in respect of which a designation order is in force—
- (a) section 2(1) of the Countryside and Rights of Way Act 2000 (c. 37) (rights of public in relation to access land),
  - (b) Part III of the Countryside (Northern Ireland) Order 1983 (S.I. 1983/1895 (N.I. 18)) (access to open country), and

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- (c) section 1 of the Land Reform (Scotland) Act 2003 (asp 2) (access rights).
- (2) The Secretary of State may take such steps as he considers appropriate to inform the public of the effect of any designation order, including, in particular, displaying notices on or near the site to which the order relates.
- (3) But the Secretary of State may only—
  - (a) display any such notice, or
  - (b) take any other steps under subsection (2),in or on any building or land, if the appropriate person consents.
- (4) The “appropriate person” is—
  - (a) a person appearing to the Secretary of State to have a sufficient interest in the building or land to consent to the notice being displayed or the steps being taken, or
  - (b) a person acting on behalf of such a person.
- (5) In this section a “designation order” means—
  - (a) in relation to England and Wales or Northern Ireland, an order under section 128, or
  - (b) in relation to Scotland, an order under section 129.

**Commencement Information**

**I4** [S. 131](#) in force at 1.7.2005 by [S.I. 2005/1521](#), [art. 3\(1\)\(n\)](#)

**Status:**

Point in time view as at 13/04/2006.

**Changes to legislation:**

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