

Extract from Criminal Justice and Public Order Act 1994

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.

(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.

[F1(4A) Where, as respects Scotland, the reason why these persons have become trespassers is that they have ceased to be entitled to exercise access rights by virtue of—

- (a) their having formed the common purpose mentioned in subsection (1) above; or
 - (b) one or more of the conditions specified in paragraphs (a) and (b) of that subsection having been satisfied,
- the circumstances constituting that reason shall be treated, for the purposes of subsection (4) above, as having also occurred after these persons became trespassers.

(4B) In subsection (4A) above “access rights” has the meaning given by the Land Reform (Scotland) Act 2003 (asp 2).]

F2(5)

(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—

- **[F3]**“common land” means common land as defined in section 22 of the Commons Registration Act 1965;]

- **[F3]**“common land” means—

(a)
land registered as common land in a register of common land kept under Part 1 of the Commons Act 2006; and

(b)
land to which Part 1 of that Act does not apply and which is subject to rights of common as defined in that Act;]

- “commoner” means a person with rights of common **[F4]**as defined in section 22 of the **M1**Commons Registration Act 1965 **[F4]**as so defined;];

- “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 **M2**Local Government Finance Act 1988 or, in Scotland, section 7(2) of the **M3**Valuation and Rating (Scotland) Act 1956, or

(ii) scheduled monuments within the meaning of the **M4**Ancient Monuments and Archaeological Areas Act 1979;

(b) land forming part of—

(i) a highway unless **[F5]**it is a footpath, bridleway or byway open to all traffic within the meaning of Part III of the Wildlife and Countryside Act 1981, is a restricted byway within the meaning of Part II of the Countryside and Rights of Way Act 2000 **]** or is a cycle track under the **M5**Highways Act 1980 or the **M6**Cycle Tracks Act 1984; or

(ii) a road within the meaning of the **M7**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 **M8**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 **[F6]**section 45 of the Commons Act 2006];

- “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 **M9**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 **M10** 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.