

THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994: TABLE OF OFFENCES INVOLVING TRESPASS

Section	Offence	Mens rea	Actus reus	Statutory Defences	Preconditions	Allocation & penalty	Comments
s61(4)	Failing to comply with police direction to leave land	Knowing that a direction to leave applies to them	<ul style="list-style-type: none"> • Fails to leave as soon as reasonably practicable OR • Returns within 3 months 	<ul style="list-style-type: none"> • D was not trespassing; • Reasonable excuse 	<p>The order to leave can only be made by a senior police officer present at the scene and they must reasonably believe the following:</p> <ul style="list-style-type: none"> • that there are two or more trespassers; • they have a common purpose of residing on the land; • the occupier has taken reasonable steps to ask them to leave; and • either the trespassers have caused damage to the land or property on it or have used insulting words or behaviour to the occupier or their 	<p>Summary only.</p> <p>3 months prison and/or a level 4 fine.</p>	<p>“Land” does not include buildings other than agricultural buildings or scheduled monuments and does not include land forming part of highways or roads: s.61(9).</p>

					<p>family/employees /agents;</p> <ul style="list-style-type: none"> • or they have more than six vehicles between them on the land. 		
s62B	<p>Failure to comply with a direction under s62A to leave land: alternative site available</p>	<p>Knowing that a direction under s62A applies to them</p>	<ul style="list-style-type: none"> • Fails to leave as soon as reasonably practicable; OR • Returns within 3 months. 	<ul style="list-style-type: none"> • D was not trespassing; • Reasonable excuse 	<p>The order to leave (and remove property) can only be made by a senior police officer present at the scene and they must reasonably believe the following:</p> <ul style="list-style-type: none"> • that there are at least two people trespassing on the land; and • they have at least 1 vehicle on the land; and • their common purpose is to reside on the land for any period; and • (in the case of them having any caravans) there is a suitable pitch available on a caravan site; and 	<p>Summary only.</p> <p>3 months prison and/or a level 4 fine.</p>	<p>If the trespassers have caravans with them then before making the direction the senior police officer must consult every local authority within whose area the land falls to find out whether there is a suitable alternative pitch: s62A(5).</p>

					<ul style="list-style-type: none"> The occupier has asked them to leave. 		
s63	Failure to comply with a direction to leave land: attending or preparing for a rave	Knowing that a direction applies to them	<ul style="list-style-type: none"> Fails to leave land as soon as reasonably practicable; OR Returns within 7 days. 	<ul style="list-style-type: none"> Reasonable excuse; “Exempt person” (defined in sub-section (10).) 	<p>The direction may only be given by an officer of the rank of superintendent or above who must reasonably believe that:</p> <ul style="list-style-type: none"> 2 or more persons are preparing to hold a rave; or 10 or more persons are waiting for a rave to begin; or 10 or persons are attending the rave which is in progress. 	<p>Summary only.</p> <p>3 months prison and/or a level 4 fine.</p>	<p>See sub-sections (1) and (1A) for what constitutes a rave.</p> <p>Where the rave is in the open air (sub-section (1)) the persons on the land need not be trespassers.</p> <p>Where it is not in the open air it only applies if the persons are trespassers (sub-section (1A).)</p> <p>The officer making the direction need not be “present at the scene” and it can be conveyed to the persons by any constable who is present.</p>
s65	Failing to comply with a direction not to proceed to a	Knowing that a direction not to proceed in the	Fails to comply with that direction	Exempt person (as above)	A direction may only be given by a constable in uniform who must be within 5 miles of the site of the rave and must	<p>Summary only.</p> <p>Level 3 fine.</p>	

	rave	direction of a rave was given to them			reasonably believe that the person to whom he gives it is on their way to the rave.		
s68	Aggravated trespass	Intentionally and with intention to intimidate, obstruct or disrupt the lawful activity of others	While trespassing does an act			Summary only. 3 months prison and/or a level 4 fine.	<p>“Lawful activity” is defined in subsection (2) and briefly is anything which does not constitute an offence or a trespass.</p> <p>“Land” includes buildings: DPP v Chivers [2010] EWHC 1814 (Admin).</p> <p>The acts relied on need not be illegal in themselves. Provided it is carried out with the requisite intention (intimidation etc.) any act may fulfil the criterion for the offence. Taking part in a mass invasion of a store and controlling it by force of numbers was</p>

							<p>enough to constitute an act which was separate from the trespass for the purposes of s68: Edward Bauer & Ors v DPP [2013] EWHC 634 (Admin) Note that it not necessary that intimidation etc actually be caused by the act (or even be likely). It is only necessary to prove the intention.</p>
s69	Failing to comply with a direction: aggravated trespass	Knowing that a direction applies to them	<ul style="list-style-type: none"> • Fails to leave as soon as reasonably practicable; OR • Returns within 3 months 	<ul style="list-style-type: none"> • Not trespassing; • Reasonable excuse 	The direction may only be given by a senior police officer present at the scene who must reasonably believe: <ul style="list-style-type: none"> • That the person has committed, is committing or intends to commit aggravated trespass; or • That there are 2 or more trespassers on 	<p>Summary only.</p> <p>3 months prison and/or a level 4 fine.</p>	

					the land with the common purpose of committing aggravated trespass.		
s70 (s14B(1) of the Public Order Act 1986 ("POA"))	Organising a trespassory assembly	Knowing that an order exists prohibiting the assembly	Organises the assembly		An order prohibiting the assembly may be made either by the local council (on the application of the chief officer of police) or by the Commissioners of City of London or Metropolitan Police (with the consent of the Secretary of State.) The police officer concerned must reasonably believe that an assembly will be held which will involve a trespass on land and that it may result in serious disruption to the life of the community or significant damage to property of historical, architectural, archaeological or scientific importance.	Summary only. 3 months and/or a level 4 fine.	S70 inserts s14A and 14B (the power to prohibit trespassory assemblies and the offences of breaching the prohibition) into the POA.
s70 (s14B(2) POA.)	Taking part in a prohibited	Knowing that an order exists	Takes part		As for s14B(1) above.	Summary only.	As above.

	assembly	prohibiting the assembly				Level 3 fine	
s70 (s14B(3) POA.)	Inciting another knowingly to take part in a prohibited assembly	As for s14B(2) above	Incites the other to commit the offence		As for s14B(1) above.	Summary only. 3 months and/or a level 4 fine.	As above
s71 (s14C POA)	Failing to comply with a direction: trespassory assembly.	Knowing a direction has been given to them not to proceed to a trespassory assembly.	Fails to comply.		A direction may only be given by a constable in uniform who must reasonably believe that the person is on their way to a prohibited assembly.	Summary only. Level 3 fine	Inserted into the POA by s71.
s76	Trespassing during the currency of an interim possession order ("IPO")		Being present on premises as a trespasser where an IPO has been made or returning to the premises after it expires but within 1 year of its being served.	<ul style="list-style-type: none"> Left the premises within 24 hours of service of the IPO and did not return; No copy of the IPO was fixed to the premises. 	The IPO must have been served in accordance with the rules of the court.	Summary only. 6 months prison &/or a level 5 fine	See s12 CLA for definition of "premises" (briefly includes any building and the land belonging to it.)
s77	Unauthorised camper failing to	Knowing that a direction	<ul style="list-style-type: none"> Fails to leave and remove any vehicles as 	Non-compliance was due to illness,	The direction may be made by the local authority for the area if it	Summary only.	"Premises" defined as above.

	comply with direction to leave	applies to them	soon as practicable; OR <ul style="list-style-type: none"> Returns within 3 months 	mechanical breakdown or other emergency.	appears to them that people are residing in vehicles on land on the highway, other unoccupied land or occupied land without the occupier's consent. It must then be served on the persons it applies to.	Level 3 fine	
s78	Obstructing local authority officer exercising a power to remove unauthorised campers.	Wilfully	Obstructs a person acting on behalf of the local authority exercising a power granted by the magistrates following a s77 direction (above.)		The local authority may obtain an order on complaint to the magistrates' court that a s77 direction is not being complied with. The order may authorise the local authority to enter the land and remove vehicles or other property. The local authority must give 24 hours' notice of their intention.	Summary only. Level 3 fine.	