

The Criminal Justice and Public Order Act of 1994

a guide to the complexities of the Criminal Justice and Public Order Act of 1994.

This is a brief guide (courtesy of Freedom Network) to the CJA. A copy of the entire Act can be viewed online

Sections 61 & 62: Trespassers on land

Two or more persons trespassing on land (not including public highway land, eg verges & lay-bys) with the intention of living there may be directed to leave the land by the police if:

- (a) there are 6 or more vehicles there; or
- (b) if any damage has been caused to the land, eg crop damage); or
- (c) 'threatening or abusive words or behaviour' have been used against the occupier or their agents.

Not leaving 'as soon as reasonably practicable' is an offence; as is returning to the land within 3 months; the maximum sentence is 3 months in prison and/or a £2,500 fine. The police are also given powers to seize vehicles.

Sections 63, 64 & 65: Raves

A 'rave' is defined as a gathering of 100+ people, at which amplified music ('wholly or predominantly characterised by the emission of a succession of repetitive beats' [!]) is played which is likely to cause serious distress to the local community, in the open air and at night.

These sections give the police the power to order people to leave the land if they're believed to be preparing to hold a rave (2 or more people); waiting for a rave to start (10+); actually attending a rave (10+). Ignoring this direction, or returning to the land within the next week, are both offences, liable to 3 months' imprisonment and/or a £2,500 fine.

Section 65 lets any uniformed constable who believes a person is on their way to a rave within a 5-mile radius to stop them and direct them away from the area - failure to comply can lead to a maximum fine of £1000.

Sections 66 & 67: Seizure

The arrangements authorising police officers to enter land where a rave is in progress or anticipated. and which allow for the seizure, retention and charges for the confiscation of vehicles and sound equipment.

Section 68 & 69: Disruptive Trespassers

These refer to the new offence of 'aggravated trespass'. Section 68 is committed by anyone trespassing on land in the open air (not including highways and roads) with the intent of intimidating other people engaged in 'lawful activity' on that land or adjoining land, so as to deter them, or obstructing/ disrupting them ('lawful activities' of course include such delights as fox-hunting; earth-raping etc etc...)

Section 69 gives the police sort of preventative powers to direct people to leave land. This direction can be made by a senior officer as long as at least one person is committing or intends to commit aggravated trespass, or there are two or more people present with the 'common purpose' of aggravated trespass.

Failure to comply with this direction carries a maximum penalty of 3 months in prison and/or a 2,500 fine.

Sections 70 & 71: Trespassory Assemblies

As an amendment to the Public Order Act of 1986, this part allows the police to apply to the local authority (or, in London, the Home Secretary) to prohibit 'trespassory assemblies' of 20+ people for up to 4 days with a 5-mile exclusion zone, as long as there is a risk of 'serious disruption to the local community', or of 'significant damage' to the land or buildings/ monuments on it which may have historical/ archaeological/ scientific importance.

Anyone organising or inciting another to attend one of these may be arrested and imprisoned for up to three months. Attendance, and refusal to be directed away, is punished by arrest and a maximum fine of £1000.

Sections 72, 73 & 74: Squatters - and Protected Intended Occupiers

These mean changes to section 6 of the Criminal Law Act of 1977, and apply only to residential property. DROs ('displaced residential occupiers', an extremely rare phenomenon!) and PIOs ('protected intended occupiers') - or others who can prove that they are acting on behalf of them - are made exempt from the protection previously given squatters and are permitted to use violence to secure entry.

It becomes an offence not to leave premises when requested to by a PIO or DRO, liable to 6 months' imprisonment and/or a fine of 5000. Section 74 introduces a new offence of deliberately or recklessly making a false statement to claim PIO status. The definition of a PIO has been extended slightly.

Sections 75 & 76: Interim Possession Orders

These sections introduce a new 'faster' way of evicting squatters. Once an IPO (interim possession order) has been granted by a court and all the legal procedures have been correctly followed, the 'squatters' must leave within 24 hours of its service. It covers any person who is there when the Order is served and even those who arrive afterwards - failing to leave or returning within one year are both offences.

The maximum penalty is 6 months in prison and/or a 5000 fine. Similarly to above, section 75 makes it an offence for the owner to make a false or misleading statement to obtain an IPO.

Sections 77, 78 & 79: Unauthorised Campers

'Unauthorised campers' are people residing in a vehicle or vehicles on any part of the highway or any other land in the open air without permission of the owner.

Section 77 gives the local council the authority to direct an unauthorised camper to leave the land and remove all vehicles. It becomes an offence to not leave the land and remove all vehicles/ property 'as soon as reasonably practicable' or to re-enter the land within 3 months, liable to a fine of up to 1000.

A magistrates' court can make an order under section 78 which allows the local council to take 'reasonable steps' to ensure the removal of a vehicle and any person residing within it. Another new offence is the wilful obstruction of anyone engaged in the removal - maximum fine of 1000.

Section 80: Caravan Sites Act

The Caravan Sites Act of 1968 included a duty of local authorities to provide gypsy sites in their areas. Most local authorities never got anywhere near full, decent levels of provision, but section 80 repeals that duty, so leaving travellers with nowhere legal to stop.

Section 154: Intentional Harassment, Alarm or Distress

This section inserts a new section 4(a) into the Public Order Act of 1986. Designed for incidents of racial harassment, its definition means it has much wider potential uses, whether against football fans or peaceful protestors, both of whom it has already been used against.

It becomes an offence to intentionally either (a) use 'threatening, abusive or insulting behaviour, or disorderly behaviour'; or (b) display 'any writing, sign or visible representation which is threatening, abusive or insulting'; to cause someone 'harassment, alarm or distress'. The maximum penalty is 6 months in prison and/or a fine of 5000.

Section 82: Possession of Articles or Information Useful to Terrorists

This section is to be inserted into the 1989 Prevention of Terrorism Act as a new Part IVa of that Act. Besides the offence of possessing articles 'giving rise to a reasonable suspicion' that they are to be used for terroristic reasons; it also becomes an offence to collect, record or simply possess 'any information which is of such a nature as is likely to be useful to terrorists in planning or carrying out any act of terrorism...'

The information is described as that 'not in the public domain' but journalists, peace campaigners and other researchers

regularly use such information in the course of their work.

The burden of proof lies on the accused to show that they had 'reasonable excuse' or 'lawful authority' to hold the information. Conviction can mean a prison sentence of up to 10 years and/or a fine. See Terrorism Acts 2000-2001 and blagged.freereserve.co.uk/

Other police powers, in less detail

Right to Silence

Up till now, anyone arrested has had the right to remain silent in police custody - a precious safeguard of a legal system based on the premise that everyone is innocent until proven guilty. Now, a jury can 'draw adverse inference' from the accused's relying on evidence not mentioned to the police at the time of arrest.

Increased Stop & Search Powers

Similar to the old 'sus' laws, these give the police increased powers to declare areas as 'stop & search zones' because they anticipate that 'serious incidents of violence' may take place.

A direction can be made to cover an area for up to 24 hours, with possible 6 hour extension.

The police are then able to stop and question people at random, as well as searching vehicles, pedestrians and any bags for weapons and dangerous articles, without even suspecting that those people have committed an offence or intend to.

This is bound to affect young people from ethnic minorities who are much more likely to be stopped and searched than a white person.

Intimate Samples

The CJA introduces the compulsory taking of 'intimate and non-intimate' samples (such as hair, saliva, skin, pubic hair, hair, blood, urine, semen - 'reasonable force' may be used in cases of non-cooperation!) from anyone charged with a 'recordable offence' (some of these are relatively minor offences and the samples are not for use in the case). These samples will instead be used for a national DNA database.

Prisons

Privately-run prisons, unaccountable to public scrutiny and run on a profit-making basis, and due to be introduced, along with prison ships and 'secure training centres' for children aged 12 to 14. These young inmates can be strip-searched forcibly by a single member of staff; all their mail can be read and censored; all family visits can be stopped on the order of the Centre's Director...

Bail conditions

Changes to the Police & Magistrates' Act mean that the police will often be able to set bail conditions themselves without resorting to a magistrate in a court. This makes ultra-restrictive bail conditions much more likely.