

Briefing on new police powers for encampments in Police, Crime, Sentencing and Courts Bill

Introduction

Royal Assent was granted by the Queen on Thursday 28 April to the Bill, so it is now an Act of Parliament. The legislation in the Bill regarding trespass / unauthorised encampments came into law on 28 June 2022.

Background

In November 2019 the Home Office (HO) launched a consultation 'Strengthening police powers to tackle unauthorised encampments' which proposed to introduce new legislation to change trespass from a civil to a criminal offence and/or strengthen police powers under the Criminal Justice and Public Order Act 1994 (CJPOA). The Government response to the consultation was published 8th March 2021 outlining plans to introduce a new criminal offence of trespass with the intent to reside, and extend existing powers in the CJPOA, which will be introduced by way of the Police, Crime, Sentencing and Courts Bill (PCSCB). The Bill was published on 9th March.

New Police Powers

Part 4 of the PCSCB sets out the details of the new offence, to be inserted into Part 5 of the Criminal Justice and Public Order Act 1994(CJPOA).

This will apply when:

- A person aged 18 or over resides or intends to reside on land without consent of the occupier of the land;
- They have, or intend to have, at least one vehicle with them on the land;
- They have caused or are likely to cause **significant** damage, disruption or distress;
- They, without reasonable excuse:
 - Fail to leave the land and remove their property following a request to do so by an occupier of the land, their representative or a constable; or
 - Enter or, having left, re-enter the land with an intention of residing there without the consent of the occupier of the land, and with an intention to have at least one vehicle with them, within 12 months of a request to leave and remove their property from an occupier of the land, their representative or a constable.

Powers to seize a vehicle/home, imprisonment, and fines

This new offence will be accompanied by powers to seize a vehicle (which in real terms is someone's home and possessions) as well as imprisonment and fines, as outlined in 60C(5)/(6) and 60D PCSCB;

- Where there is reasonable suspicion that a person has committed this offence [*trespass with intent to reside as outlined in Section 60C PCSCB*] confers power on the police to seize their vehicle/other property for up to three months from the date of seizure or, if criminal proceedings are commenced, until the conclusion of those proceedings.
- The maximum penalty will be three months' imprisonment or a fine not exceeding level 4 (£2,500) on the standard scale, or both.
- The arrest and vehicle/property seizure powers will be exercised where the police have reasonable grounds to suspect (for arrest) or reasonably suspects (seizure power) that a person has met the conditions of the offence. The reasonable excuse 'defence' enables a person to escape liability where they can show they have a reasonable excuse for failing to comply as soon as reasonably practicable with a request to leave and remove their property or for entering or re-entering within 12 months of the request with an intention to reside without consent. (Currently it is 3 months)

Also, the CJPOA has been extended to allow the police to use their current power, s61 on highways. The current legislation does not cover this.