



# Protesting on Private Property

This guide goes through the main things to be aware of if you are planning a protest on private property.

The police have the power to arrest people for criminal offences. Remember though that, even if convicted, first time offenders would be **very unlikely** to receive the maximum penalties.

If you are planning a long-term occupation then it's good to be prepared for being faced with a Possession Order and an Injunction.

1. [Civil Law](#) (including Possession Orders and Injunctions)
2. [Criminal Offences](#)
3. [Private Security](#)

For a more detailed guide, see Netpol's [Guides on Policing and the Law for Campaigners Against Fracking](#)

---

## 1. Civil Law

**Generally, trespass is a civil law offence, which means that the police have no power to arrest you for it.**

Trespass is entering – or putting property on – land that belongs to someone else, without their permission.

If you have 'implied permission' to enter somewhere – for instance a shop open to members of the public – then you are not committing trespass until you have been asked to leave by the owner of the building or their representative. In a shop this is often a manager, but should not be police officer. If you fail to do so, then you could be taken to a civil court ('sued') by the owner.

When protesters occupy a building or land, landowners can lawfully use reasonable force to remove trespassers in an emergency but risk committing an assault or breaching Section 6 of the Criminal Law Act 1977, which makes it an offence to use violence to secure entry onto 'premises' (which includes buildings, land around it or a site with a number of buildings).

Section 6 explicitly says that "the fact that a person has any interest in or right to possession or occupation of any premises shall not<sup>2</sup> constitute lawful authority for the use or threat of violence."

Landowners, leaseholders or holders of a licence to use land or property are more likely to therefore apply to the civil courts for a 'possession order', which requires that the claimant is granted possession (exclusive physical control).

Protesters may also face the threat of an 'injunction' – a court order that instructs them to stop an existing activity or refrain from undertaking a particular future action. For more information, see our [guide to dealing with injunctions](#).

---

## 2. Criminal Offences

**This is a list of some offences which are specific to protest on private property.**

### Aggravated Trespass

You must be doing two things to commit aggravated trespass:

1. Trespassing
2. Intentionally obstructing, disrupting, or intimidating others from carrying out 'lawful activities'.

Further to this, a senior police officer has the power to order any person believed to be involved in aggravated trespass to leave the land; if they refuse to leave after being ordered to by police officer, or if they return to the land in question within a period of three



# Protesting on Private Property

---

months, this is an additional offence.

*Maximum penalty is 3 months imprisonment, or a fine of £2500, or both. First time offenders would likely get a fine of between £200 – £300.*

## **Criminal Trespass onto Protected Sites**

A protected site means either a licensed nuclear site or a designated site.

Penalties for a successful conviction include imprisonment of up to six months, a fine of up to £5000 or both. However, a person charged can use as a defence the fact that she did not know, and had no reasonable cause to suspect, that the site was a protected site.

## **Trespassory Assembly**

A trespassory assembly is a static gathering involving more than 20 people in the open air on land to which the public has no right, or a limited right, of access.

A chief police officer can apply for an order to prohibit all trespassory assemblies in a district.

It is an offence to organise, takes part in or incite others to participate in an assembly prohibited by an order.

A police constable in uniform who reasonably believes someone is on the way to a prohibited assembly may stop and direct the person not to proceed in the direction of the assembly. Officers can only exercise this power within the area where the order applies. It is an offence to fail to comply with the constable's direction.

## **Trespass inside Residential Buildings**

In 2012, Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) made it a criminal offence to trespass in residential properties with the intention of living there. It does not apply if:

- the property is not residential,
- people are or were tenants (including sub-tenants) of the property
- people have (or had) an agreement with someone with a right to the property
- people in the property are not intending to live there

---

## **3. Private Security**

### **Everyone can be liable for assault, including police officers and security guards.**

Police have powers that allow them to handle people more than anyone else. A security guard can act using reasonable force to prevent a crime from occurring, the same way that any member of the public can, but for security guards courts will often deem that they are allowed to act more forcefully than the average member of the public.

Licenses: Anybody employed by a private security company, agency, or contractor must be licensed by the Security Agency Industry (SIA). A 'Security Licence' is needed for those guarding premises against unauthorised access, occupation, against outbreaks of disorder or damage, and against theft. This includes "providing a physical presence, or carrying out any form of patrol or surveillance". However, if the activity is performed by a direct employee of a company (i.e. is employed 'in-house'), a licence is not required.

Front-line staff **MUST** wear their licence (credit-card-sized) where it can be seen, unless wearing the licence would undermine their role (i.e. store detectives). Failure to do so is a breach of the licence conditions, and may be reported to the SIA. Non-front line staff (i.e. managers) must carry their licence (a letter) with them. Both groups of staff **MUST** show their licence when asked by a police officer or an employee of the SIA (but, not by a member of the public).