

Facilities Management from A to Z

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respassers

Trespassers Will Be Prosecuted signs are commonly seen around the perimeter fences of facilities. However in England and Wales the terminology used is actually incorrect. Trespassers cannot usually be prosecuted under English criminal law as it is not a criminal offence in most cases.

In England and Wales trespass is a civil liability with some exceptions for particular kinds of sites. Trespass on the Railway for instance, is a criminal offence. A person can be sued for trespass if they refuse to leave someone's land; The landowner can ask the Police to escort them from the land if they refuse to leave, but they will not take action for trespass; However the Police will arrest them if they trespass on the railway.

In Scotland, the Trespass (Scotland) Act 1865 is the relevant law and those convicted of trespass can be liable to a fine or imprisonment for camping or lighting fires without the land owner's permission.

Although the definition of trespassing can vary from a civil to a criminal offence depending on the where the act of trespassing takes place, the basic definition of the legal term remains the same. Trespassing is the legal concept of intruding on another person's property that you do not have permission to be on.

Although trespassing is no longer considered a criminal offence for the most part in England, up until 1694 trespassing was considered a criminal offence with a fine issued for the breach of peace. Now the only cases in England when trespassing is considered a criminal offence is when there is statutory enactment also present such as a combination of trespassing and forcible entry, or being on dangerous ground such as railway properties.

Trespassing laws are not only applicable to humans, but also to any animals that they may be responsible for. For example, dogs or cattle that stray onto another person's land can result in an owner being fined for animal trespassing although this is also a civil offence. Additionally, placing an object on land without the permission to do so is also a legal civil offence called an act of trespass.

Where the trespass does not form part of a specific criminal offence e.g. a person wanders onto another's land from a public footpath intentionally or otherwise, they may be sued for the hypothetical value of the benefit received by the person trespassing. The owner of the land can also get an injunction against the trespasser preventing them from continuing to trespass. An owner or occupier of property has a duty not to leave property in a dangerous condition, and in some circumstances a trespasser may successfully sue for damages if injury occurs. Vehicles parked or abandoned on private land can be treated as per civil trespass.

The Crown Prosecution Service provides useful guidance on Trespass law at http://www.cps.gov.uk/legal/s_to_u/trespass_and_nuisance_on_land/