

THE TRESPASS ACT

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THE TRESPASS ACT

Cap. 392.
Acts
17 of 1982
3rd Sch.,
10 of 2000.

[1851.]

1. This Act may be cited as the Trespass Act.

Short title.

PART I. *Trespass upon Premises*

2.—(1) If any person shall commit a trespass by entering, without lawful authority, the premises of any private resident or upon land belonging to any proprietor or occupier—

Trespass on
enclosed or
cultivated
land.
17/1982
3rd Sch.

(a) which is enclosed; or

(b) which is in any manner cultivated or on which any agricultural activity is being carried out, he shall be guilty of an offence.

(2) Any person who is found guilty of an offence against subsection (1) shall be liable on summary conviction in a Resident Magistrate's Court—

(a) where the offence was committed at night, to a fine not exceeding forty thousand dollars or three times the value of the damage done during the course of the trespass, whichever is the greater, or in default of payment thereof to imprisonment for a term not exceeding two years; or

10/2000
S. 2(a).

(b) where the offence was committed by day, to a fine not exceeding twenty thousand dollars or three times the value of the damage done during the course of the trespass, whichever is the greater, or in default of payment thereof to imprisonment for a term not exceeding one year.

10/2000
S. 2(b).

3. If any person shall enter and trespass upon the premises of any private residence, or on any land of any proprietor or occupier, without lawful authority, or with-

Trespassers
may be
required to
quit premises,
etc.

out the leave or permission of such proprietor or occupier, it shall be lawful for such proprietor or occupier, or his or her servants, to require the person or persons so trespassing forthwith to quit the premises, or the land whereon he, she or they shall be trespassing, and also to tell his or her Christian name, surname and place of abode; and in case such trespasser shall, after being required, refuse to tell his or her real name and place of abode, or shall give a false or illusory account of himself or herself, or shall wilfully continue upon, or return to, the said premises or land, or any part thereof, it shall be lawful for the proprietor or occupier, and his servants, to apprehend such offender or offenders, and cause him, her or them forthwith to be taken or carried before a Justice of the parish in which such offence is committed, who is hereby empowered to bind him, her, or them over to appear before a court of summary jurisdiction, and every offender as aforesaid shall be liable on summary conviction in a Resident Magistrate's Court to a penalty not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months.

10/2000
S. 3.

Trespass
for pur-
pose of
destroy-
ing trees,
etc.
10/2000
S. 4.

4.—(1) A person commits an offence if he trespasses upon any unenclosed land for the purpose of—

- (a) damaging or destroying any tree;
- (b) cutting wood or grass; or
- (c) stealing and taking or carrying away any fruit or root used as food for human beings or animals.

(2) A person commits an offence if he fixes or places upon any pole, tree or land, without the consent of the proprietor or occupier of that land, any spring trap or other engine, instrument or contrivance, designed to capture, destroy or cause bodily injury to any bird coming into contact therewith.

(3) Any person who commits an offence under subsection (1) shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or three times the value of the damage done during the course of the trespass, whichever is the greater and in default of payment thereof, to imprisonment for a term not exceeding one year.

(4) A person who commits an offence against subsection (2) shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars.

5. If any person shall be found passing along any private road through any lands or premises of any proprietor or occupier, with a lethal weapon or lighted torch, during the night, without the consent of the proprietor or occupant, every such person shall be liable on summary conviction in a Resident Magistrate's Court, to a penalty not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months.

Passing along private road during night with a gun without consent of owner.
10/2000
S. 5(a).
10/2000
S. 5(b).

6. If any person shall enter upon and occupy any lands belonging to, or in the possession of, any person, without the leave of the proprietor or person in lawful possession thereof, it shall be lawful for any Justice of the parish in which the offence was committed, by warrant under his hand and seal, and which warrant the said Justice is hereby required to grant, upon oath being made before him charging any such trespasser with having, without just claim, or apparent title, entered upon and occupied, or taken possession of any such lands, to cause such trespasser to be brought before a Resident Magistrate's Court which is hereby authorized and empowered, on conviction, to cause such trespasser to be removed from the possession of the said land, and to inflict a penalty, not exceeding five hundred thousand dollars, upon such offender.

Squatters.

17/1982
3rd Sch.

10/2000
S. 6(a)

7. No court shall proceed to convict any person named of being a trespasser, or inflict any fine upon, or give any order

No person to be dispossessed who has had quite possession for a year.

to dispossess such occupier, by or under the authority of this Act, if it shall appear to the said court that the party or parties against whom such complaint is made hath or have been, by himself or themselves, or by those under whom he or they claim title, in the quiet possession of the land or premises mentioned or referred to in any such information for one year before the date thereof; or that such party or parties hath or have any just claim, or apparent title, to such lands, or the occupation thereof.

Definition.

8. In the foregoing sections, when the word “proprietor”, or “occupier”, or either of them is used, it shall be held to include and be applicable to tenants, lessees, and procuracy attorneys, and agents, as well as to proprietors or occupiers.

Action by Executors, etc.

Executor may bring action for injury to real estate of deceased.

9. An action of trespass, or trespass on the case, as the case may be, may be maintained by the executors or administrators of any person deceased for any injury to the real estate of such person committed in his lifetime, for which an action might have been maintained by such person, so as such injury shall have been committed within six months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person; and further, an action of trespass, or trespass on the case, as the case may be, may be maintained against the executors or administrators of any person deceased for any wrong committed by him in his lifetime to another, in respect of his property, real or personal, so as such injury shall have been committed within six months before such person’s death, and so as such action shall be brought within six months after such executors or administrators shall have taken upon themselves the administration of the estate and effects of such person; and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such person.

Action may be brought against executor for injury to property by testator.

Entering on Land for Purpose of Hunting, etc.

10. Any person who commits any trespass by entering upon the premises of any private residence or upon any land without leave of the proprietor, tenant or occupier for the purposes of hunting, shooting, or otherwise, shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding twenty thousand dollars.

Entering on
land for
purpose of
hunting, etc.
10/2000
S. 7.

Assault by Trespassers

11. Any person who, in the act of committing a trespass, shall resist by violence or assault any person occupying private premises or land, or the servant of or any person authorized by, such person, shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years.

Assault,
etc., by
trespassers.
10/2000
S. 7.

PART II. Cattle Trespass

12. It shall be the duty of the proprietor of any stock to take proper and effective measures to prevent such stock from trespassing on to the land of other persons, and subject to the provisions hereinafter contained, such proprietor shall be responsible in damages in respect of any injury done by such stock trespassing on to the land of other persons:

Duty of
proprietor of
stock to
prevent them
from trespass-
ing.

Provided always that within forty-eight hours of the discovery of such injury the party aggrieved shall give notice of the nature thereof to the proprietor or person in charge of the stock causing the same, and shall thereafter allow him and his valuers free ingress to the land at all reasonable times for the purpose of inspecting the same; and shall, if required, point out the location of the damages complained of, and if, on the hearing of any action brought to recover any such damages as aforesaid, it shall appear that the plaintiff has failed to give

such notice as aforesaid, or having failed to give such notice shall not account for such failure to the satisfaction of the court, or that the plaintiff has obstructed the defendant or his valuator in their inspection of the alleged damage, the plaintiff shall be non-suited.

As to trespass by animals being driven along a public road.

13. No person in occupation of any land abutting on a public road shall be entitled to recover any damages in respect of any trespass on such land by any stock while the same are being lawfully driven on such road, under proper care and control, unless such land is secured by a fence along such road sufficient to keep out ordinary stock of the class of animals committing the trespass.

The onus of showing that any stock were being so driven as aforesaid shall lie on the owner of the stock.

Evidence in actions for trespass by stock.

14. If in any action brought to recover any damages under this Act, the owner of the stock shall prove that his land is enclosed by good and sufficient fences, and that he has adopted all other reasonable and proper precautions for the confinement of his stock, and that they have nevertheless, through some cause or accident beyond his control and which he could not reasonably have provided against, escaped from his land, the party complaining shall not be entitled to recover any sum unless he can show that he has fenced his land with a fence sufficient to keep out ordinary tame cattle and horsekind.

Making or leaving openings to enable stock to trespass.

15. Any person who shall wilfully open or leave open any gate, or break down or injure any fence or other contrivance provided for the purpose of confining any stock, with intent to allow such stock to trespass off the land on which the same is confined, shall be liable, on conviction in a Resident Magistrate's Court, to imprisonment with or without hard labour for a period not exceeding two years or to a fine not exceeding twenty thousand dollars or three times the value of the damage done, whichever is the greater, and in default of payment thereof, to imprisonment for a term not exceeding three years.

Punishment.

10/2000
S. 8(a)(b).

16. In this Part the word “stock” shall include horsekind, cattle, sheep, pigs, goats and poultry.

“Stock”
defined.

17. The Minister may by order subject to affirmative resolution, amend any penalty provided under this Act.

Amend-
ment of
penalties,
10/2000
S. 9.