

# BILL

## No. 43

### An Act respecting Trespass to Property

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(Assented to )

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### Short title

1 This Act may be cited as *The Trespass to Property Act*.

#### Interpretation

2 In this Act:

(a) **“enclosed land”** means land that:

(i) is surrounded by a fence, a natural boundary or a combination of a fence and a natural boundary;

(ii) is enclosed in a manner that indicates the occupier’s intention to keep persons off the occupier’s premises or animals on the occupier’s premises; or

(iii) is prescribed in the regulations;

(b) **“motor vehicle”** means a motor vehicle as defined in *The Traffic Safety Act*;

(c) **“occupier”** includes:

(i) a person who is in physical possession of premises;

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- (ii) a person who:
  - (A) has responsibility for and control over the condition of premises or of the activities there carried on; or
  - (B) has control over persons allowed to enter in or on the premises; or
- (iii) a person prescribed in the regulations;
- (d) **“peace officer”** means a peace officer as defined in *The Summary Offences Procedure Act, 1990*;
- (e) **“premises”** means lands or structures and includes the following:
  - (i) water;
  - (ii) ships and vessels;
  - (iii) trailers and portable structures designed or used for a residence, business or shelter;
  - (iv) trains, railway cars, vehicles and aircraft, except while in operation.

**Trespass prohibited**

**3(1)** Without the consent of the occupier of a premises, no person who is not acting under a right or authority conferred by law shall:

- (a) enter in or on the premises when entry is prohibited pursuant to this Act;
  - (b) engage in an activity in or on the premises if that activity is prohibited by this Act;
  - (c) after being requested either orally or in writing by the occupier to leave the premises, fail to leave the premises as soon as is practicable;
  - (d) after being requested either orally or in writing by the occupier to stop engaging in an activity in or on the premises, fail to stop the activity as soon as is practicable;
  - (e) after leaving the premises pursuant to a request to do so made pursuant to this Act, re-enter the premises; or
  - (f) after discontinuing an activity pursuant to a request to do so made pursuant to this Act, resume the activity in or on the premises.
- (2) For the purposes of subsection (1), the onus rests on the defendant to prove, on a balance of probabilities, that he or she had the consent of the occupier to enter in or on the premises or to engage in the activity in or on the premises.

**Prohibited entry and activities**

**4(1)** For the purposes of clause 3(1)(a), entry in or on premises is prohibited if any person:

- (a) enters in or on premises that are the property of another person when a notice respecting the premises is given in accordance with section 11; or
- (b) enters in or on enclosed lands that are the property of another person.

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(2) For the purposes of clause 3(1)(b), an activity is prohibited if it is an activity for which notice respecting the premises is given in accordance with section 11.

(3) A person found in or on enclosed land is presumed not to have the consent of the occupier to be there.

**When peace officer may exercise powers of occupier**

**5(1)** A peace officer may do all or any of the things mentioned in subsection (2) if:

(a) a person enters in or on premises when entry is prohibited pursuant to this Act; or

(b) a person is engaged in an activity in or on premises that is prohibited pursuant to this Act.

(2) In the circumstances mentioned in subsection (1), a peace officer may do all or any of the following:

(a) request a person either orally or in writing not to enter in or on the premises;

(b) request a person either orally or in writing to leave the premises;

(c) request, either orally or in writing, a person engaged in an activity in or on the premises to stop engaging in that activity.

(3) No person shall fail to comply with a request of a peace officer made pursuant to this section.

**Peace officer may act in imminent situations or conditions**

**6(1)** With respect to any premises, a peace officer may do all or any of the things mentioned in subsection (2) if the peace officer has reasonable grounds to believe that there is a present or imminent situation or condition that requires prompt action to prevent or limit:

(a) loss of life;

(b) harm or damage to the safety, health or welfare of any person; or

(c) damage to property or the environment.

(2) In the circumstances mentioned in subsection (1), a peace officer may do all or any of the following:

(a) request a person either orally or in writing not to enter in or on the premises;

(b) request a person either orally or in writing to leave the premises;

(c) request, either orally or in writing, a person engaged in an activity in or on the premises to stop engaging in that activity.

(3) No person shall fail to comply with a request of a peace officer made pursuant to this section.

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**Defences to trespass**

7(1) It is a defence for a person charged with an offence pursuant to section 3 or 5 to prove, on a balance of probabilities, that he or she reasonably believed that he or she had title to or an interest in the premises that entitled the person to enter in or on the premises or to engage in the activity complained of.

(2) It is a defence for a person charged with an offence pursuant to section 3 or 5 to prove, on a balance of probabilities, that the entry in or on the premises or the activity there engaged in was:

- (a) with the consent of an occupier of the premises;
- (b) under a right or authority conferred by law;
- (c) undertaken in the honest and reasonable belief that he or she had the consent of an occupier of the premises; or
- (d) undertaken in the honest and reasonable belief that he or she had lawful justification to enter in or on the premises or to engage in the activities complained of.

**Prohibition of entry**

8(1) Entry in or on premises may be prohibited by a notice given in accordance with section 11.

(2) Entry in or on any enclosed land is prohibited whether or not any notice is given pursuant to section 11 with respect to that enclosed land.

(3) For the purposes of this Act, there is a presumption that access for lawful purposes is not prohibited to the door of a building on premises by means apparently provided and used for the purpose of access.

**Limited permission**

9(1) If notice is given that one or more particular activities are permitted, all other activities and entry for the purpose of engaging in those other activities are deemed to be prohibited.

(2) Any notice given in addition to that mentioned in subsection (1) that entry is prohibited or a particular activity is prohibited in or on the premises is to be construed as for greater certainty only.

**Limited prohibition**

10 If entry in or on premises is not prohibited pursuant to section 3 or by notice that one or more particular activities are permitted pursuant to section 9, and notice is given that a particular activity is prohibited:

- (a) that activity and entry in or on the premises for the purpose of engaging in that activity are prohibited; and
- (b) all other activities and entry in or on the premises for the purpose of engaging in those activities are not prohibited.

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**Method of giving notice**

**11(1)** A notice pursuant to this Act may be given:

- (a) orally or in writing;
  - (b) by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which the notice applies; or
  - (c) by any other means prescribed in the regulations.
- (2) Substantial compliance with clause (1)(b) or (c) is sufficient notice.
- (3) A sign that is posted in accordance with clause (1)(b) is sufficient for the purpose of giving notice that an activity is prohibited if the sign:
- (a) names that activity and has an oblique line drawn through the name of the activity; or
  - (b) shows a graphic representation of that activity and has an oblique line drawn through that representation.
- (4) A notice given pursuant to this section may relate to all or part of any premises and different notices may be given or posted in relation to different parts of any premises.
- (5) No person, other than the occupier, shall remove, alter or deface signs posted for the purposes of this section.

**Arrest without warrant**

**12** A peace officer may arrest without warrant any person found in or on premises if the peace officer believes on reasonable grounds that the person is contravening any provision of this Act.

**Motor vehicles**

**13** If a contravention of this Act is committed by means of a motor vehicle:

- (a) the driver of the motor vehicle is liable to the fine provided pursuant to this Act; and
- (b) if the driver is not the owner of the motor vehicle, the owner is liable to the fine provided pursuant to this Act unless:
  - (i) the driver is convicted of the offence; or
  - (ii) at the time the contravention was committed, the motor vehicle was in the possession of a person other than the owner without the owner's consent.

**Offence and penalty**

**14** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000.

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**Crown land**

**15** This Act does not apply to the following:

- (a) vacant Crown agricultural land;
- (b) Crown resource land;
- (c) park land as defined in *The Parks Act*;
- (d) any other Crown land or any category of other Crown land that is prescribed in the regulations.

**Act is in addition to, and not in derogation of, other Acts**

**16** The provisions of this Act are in addition to, and not in derogation of, the provisions of any other Act, regulations made pursuant to any other Act or a municipal bylaw that deal with entry in or on premises for the purposes of engaging in an activity and, if there is any conflict between the provisions of this Act and the regulations and any other Act, the regulations made pursuant to any other Act or the municipal bylaw, the provisions of the other Act, the regulations made pursuant to the other Act or the municipal bylaw prevail.

**Exemptions from Act**

**17** This Act does not apply to:

- (a) peace officers, firefighters, ambulance attendants, paramedics, first responders or other emergency personnel while acting in the course of their duties;
- (b) persons authorized by an Act or law to enter in or on premises to install, inspect, replace, remove or read meters or service connections that are part of a public utility while acting in the course of their duties;
- (c) inspectors appointed pursuant to *The Electrical Inspection Act, 1993* or *The Gas Inspection Act, 1993* while acting in the course of their duties;
- (d) individuals engaged in lawful hunting, fishing and trapping activities;  
or
- (e) any other person or class of persons prescribed in the regulations.

**Regulations**

**18** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression that is used in this Act, but not defined in this Act;
- (b) for the purposes of clause 2(a), prescribing land or categories of land as enclosed land;
- (c) for the purposes of clause 2(c), prescribing persons or classes of persons as occupiers;
- (d) for the purposes of clause 11(1)(c), prescribing other means of giving notice;

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- (e) for the purposes of clause 15(d), prescribing Crown land or categories of Crown land to which this Act does not apply;
- (f) for the purposes of clause 17(e), prescribing persons or classes of persons to whom this Act does not apply;
- (g) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (h) respecting any other matter or thing the Lieutenant Governor in Council considers necessary or expedient to carry out the intent of this Act.

**Coming into force**

**19** This Act comes into force on proclamation.

