

The Trespass to Property Act

Several Saskatchewan statutes deal with the issue of trespass in specific circumstances (e.g., section 41 of *The Wildlife Act, 1998* prohibits hunting on posted land without the consent of the land owner or occupier; section 6 of *The All Terrain Vehicles Act* prohibits the operation of ATVs on private or Crown land without the permission of the owner or occupier; section 25 of *The Snowmobile Act* provides that snowmobiles cannot be operated on private land within a city, town, village or hamlet, or on posted rural private land without the consent of the owner or occupier; and section 6 of *The Provincial Lands Regulations* provides that anyone occupying provincial lands without authority from the province is a trespasser). In addition, section 177 of the *Criminal Code* sets out a summary conviction offence regarding trespassing near dwelling houses at night.

The Trespass to Property Act is petty trespassing legislation of general application. It is not meant to replace legislation dealing with specific trespass circumstances such as snowmobiling. It seeks to balance the reasonable expectations of property owners or occupiers and those who want access to privately owned property for legitimate reasons. For example, it does not apply to individuals engaged in lawful hunting, fishing or trapping activities, nor to Crown resource lands or park lands that are used for public recreation purposes. However, leased Crown agricultural lands will be dealt with in the same manner as privately owned property.

The Act makes it an offence, without lawful authority, to:

- enter onto posted or enclosed lands or other premises without the consent of the owner or other occupier;
- enter onto lands or other premises, even if not posted or enclosed, after being requested not to do so by the owner or other occupier;
- engage in prohibited activities on the lands or other premises without the consent of the owner or other occupier;
- fail to leave lands or other premises, or to discontinue an activity, after being requested to do so by the owner or other occupier; and
- after leaving lands or other premises or discontinuing an activity pursuant to the request of an owner or other occupier, return to the lands or other premises or resume the activities.

Persons contravening the Act are liable on summary conviction to a fine of up to \$2,000.

It will be a defence to a charge under the Act for a person to prove that he or she reasonably believed that he or she had title to or an interest in the premises in question. It is also a defence that the person had the consent of an occupier of the premises or was acting under lawful authority, or that he or she had an honest and reasonable belief that he or she was acting with consent or under lawful authority.