NORTHERN TERRITORY OF AUSTRALIA

TRESPASS ACT

As in force at 1 May 2016

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TRESPASS ACT

An Act to amend the law relating to trespass

1 Short title

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

2 Commencement

(1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Repeal

Sections 118 and 119 of the *Crown Lands Act* and sections 57(1)(n) and 91A of the *Summary Offences Act* are repealed.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

Crown land means all Crown land, including reserved or dedicated land, other than Crown land which has been leased or is occupied under a licence or an agreement.

occupier, in relation to a place, means:

(a) where the place is Crown land or land occupied by the Territory or the Commonwealth or a statutory corporation – a person in charge of the land; and

(b) where the place is other than Crown land or land occupied by the Territory or the Commonwealth or a statutory corporation – a person in lawful occupation of the place,

and includes an employee or other person acting under the authority of a person in charge under paragraph (a) or in lawful occupation under paragraph (b);

place includes premises and land (including prohibited land and Crown land).

premises means:

(a) a building or structure whether permanent or temporary and whether fixed or capable of being moved;

(b) a dwelling-place;

(c) any part of a yard, garden or area (whether enclosed or not); or

(d) a vehicle (including a caravan), vessel, aircraft or hovercraft.

prohibited land means:

(a) Crown land;

(b) land occupied by the Territory or the Commonwealth; or

(c) land occupied by a statutory corporation,

upon which is posted a notice in English to the effect that trespassing on the land is prohibited.

(2) Where no person is the occupier of any place, the owner of that place shall, for the purposes of this Act, be deemed to be the occupier.

5 Trespass on premises

A person who trespasses on premises commits an offence.

Maximum penalty: 20 penalty units or imprisonment for 6 months.

6 Trespass on prohibited land

A person who trespasses on prohibited land commits an offence.

Maximum penalty: 20 penalty units.

7 Trespass after direction to leave

(1) A person who trespasses on any place and, after being directed to leave that place by an occupier or member of the Police Force acting at the request of the occupier, fails or refuses to do so forthwith or returns within 24 hours to that place, commits an offence.

Maximum penalty: 20 penalty units.

(2) A direction under subsection (1) may, where the trespass is on Crown land or land occupied by the Territory or the Commonwealth or a statutory corporation, be given by a member of the Police Force whether a request to act has been made by the occupier or not.

8 Trespass after warning to stay off

(1) Where a person is trespassing or has trespassed on any place, an occupier of that place may, at the time of the trespass or within a reasonable time afterwards, warn that person to stay off that place.

(2) Where an occupier of any place has reasonable cause to suspect that a person is likely to trespass on that place, the occupier may warn that person to stay off that place.

(3) Where a person is found guilty of an offence against this Act committed on or in respect of any place, the Court may warn that person to stay off that place.

(4) A person who, being a person who has been warned under this section to stay off any place, trespasses on that place within one year after the giving of the warning, commits an offence.

Maximum penalty: 20 penalty units.

9 Giving directions or warnings

(1) A direction to leave under section 7 or a warning to stay off under section 8 shall be given to the individual person concerned either orally or by notice in writing delivered to that person or sent to that person by post.

(2) Where the person concerned is a member of a group, it is a sufficient compliance with subsection (1) in relation to an oral direction to leave or a warning to stay off if the direction or warning is addressed to the group or members of it and it is clear that the person concerned is included among those persons addressed.

10 Power of removal

Where a person fails or refuses to leave a place after being directed to do so under section 7 or trespasses on a place after being warned to stay off under section 8, a member of the Police Force may warn that person of the consequences of not leaving the place forthwith and, if the person fails to leave forthwith:

(a) arrest the person without warrant to be further dealt with according to law; or

(b) without arrest but by force if necessary, remove the person and the person's property (if any) from that place.

11 Offences

(1) Offences under this Act are regulatory offences.

(2) Proceedings for offences under this Act shall be taken only on the complaint of an occupier of the place concerned or a member of the Police Force.

(3) Proceedings taken and a finding of guilt entered in respect of an offence committed under one provision of this Act shall not be a bar to proceedings being taken and a finding of guilt entered against the same defendant in respect of an offence committed under another provision of this Act in respect of a continuing course of events.

12 Evidence

In proceedings for an offence against this Act, an averment in a complaint or information that:

(a) the person is, or was at the relevant time, an occupier within the meaning of section 4 or a member of the Police Force; or

(b) a direction to leave or a warning to stay off was given in accordance with section 9,

is evidence of the fact so averred.

13 Defences

(1A) It is a defence to a charge of committing an offence against section 5 if the defendant proves that the trespass was a result of an honest and reasonable mistake of fact.

(1) It is a defence to a charge of committing an offence against section 6 if the defendant proves that:

(a) the defendant did not see and could not reasonably be assumed to have seen the notice posted on the land; or

(b) the trespass was not wilful and was done while hunting or in the pursuit of game.

(2) It is a defence to a charge of committing an offence against section 5 or 7 if the defendant proves that it was necessary to remain in or on the place concerned or to return to that place for the defendant's own protection or the protection of some other person, or because of some emergency involving the defendant's property or the property of some other person.

(3) It is a defence to a charge of committing an offence against section 8 if the defendant proves that:

(a) the person by whom or on whose behalf the warning concerned was given is no longer an occupier of the place concerned; or

(b) it was necessary for the defendant to commit the trespass for the defendant's own protection or for the protection of some other person, or because of some emergency involving the defendant's property or the property of some other person.

14 Relationships of Act to other laws and instruments

Nothing in this Act shall:

(a) derogate from anything that a person is authorized to do by or under any other Act or law in force in the Territory; or

(b) affect the provisions of:

(i) the *Business Tenancies (Fair Dealings) Act* or the *Residential Tenancies Act*; or

(ii) an Act or instrument conferring a right of entry on land.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Trespass Act 1987* (Act No. 7, 1987)**

Assent date	27 May 1987
Commenced	1 July 1987 (*Gaz* G24, 17 June 1987, p 4)

***Sentencing (Consequential Amendments) Act 1996* (Act No. 17, 1996)**

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Residential Tenancies (Consequential Amendments) Act 1999* (Act No. 46, 1999)**

Assent date	10 November 1999
Commenced	1 March 2000 (s 2, s 2 *Residential Tenancies Act 1999* (Act No. 45, 1999) and *Gaz* G8, 1 March 2000, p 2)

***Trespass Amendment Act 2000* (Act No. 51, 2000)**

Assent date	14 November 2000
Commenced	6 December 2000 (*Gaz* G48, 6 December 2000, p 3)

***Statute Law Revision Act 2004* (Act No. 18, 2004)**

Assent date	15 March 2004
Commenced	1 July 2004 (s 2(2), s 2 *Business Tenancies (Fair Dealings) Act 2003* (Act No. 55, 2003) and *Gaz* G9, 3 March 2004, p 5)

***Justice Legislation Amendment (Penalties) Act 2010* (Act No. 12, 2010)**

Assent date	20 May 2010
Commenced	1 July 2010 (*Gaz* G24, 16 June 2010, p 2)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

3 LIST OF AMENDMENTS

s 4	amd No. 51, 2000, s 4
ss 5 – 7	amd No. 51, 2000, s 7; No. 12, 2010, s 3
s 8	amd No. 17, 1996, s 6; No. 51, 2000, s 7; No. 12, 2010, s 3
s 10	amd No. 51, 2000, s 7
s 11	amd No. 17, 1996, s 6; No. 8, 2016, s 45
s 12	amd No. 51, 2000, s 5
s 13	amd No. 51, 2000, s 6
s 14	amd No. 46, 1999, s 7; No. 18, 2004, s 3