

**Reprint  
as at 1 July 2013**



**Trespass Act 1980**

Public Act    1980 No 65  
Date of assent    17 December 1980  
Commencement    see section 1(2)

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Justice.**

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**An Act to amend the law relating to trespass****1 Short Title and commencement**

- (1) This Act may be cited as the Trespass Act 1980.
- (2) This Act shall come into force on 1 January 1981.

**2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—

**disturb**, in relation to any domestic animal, means to disturb the animal to an extent that causes harm to the animal, or material loss or material inconvenience to the person who owns it or is in charge of it

**domestic animal** means—

- (a) an animal of any of the following kinds when not in a wild state, namely, horses, cattle, sheep, and swine, within the meaning of the Animals Act 1967, and poultry within the meaning of the Poultry Act 1968; and
- (b) any deer that is being lawfully kept in captivity within a deer-proof fence; and
- (c) any goat that is being lawfully kept in captivity within a goat-proof fence; and
- (d) any rabbit that is being lawfully kept in captivity; and
- (e) any wild animal within the meaning of the Wild Animal Control Act 1977 that is being lawfully kept in captivity—
  - (i) in a zoological garden; or
  - (ii) in a manner or by a restraining device that will prevent its escape

**occupier**, in relation to any place or land, means any person in lawful occupation of that place or land; and includes any employee or other person acting under the authority of any person in lawful occupation of that place or land

**private land** means any land alienated from the Crown in fee simple or for any lesser estate or interest and any land, whether alienated from the Crown or not, of which any person is in actual occupation or in receipt of the rent or profits

**weapon** means any gun, rifle, airgun, or air rifle; and includes any kind of weapon or device from which any shot, bullet, arrow, tranquillising dart, or other missile can be discharged.

- (2) Where, except by virtue of this subsection, no person is the occupier of any place or land, the owner of that place or land shall, for the purposes of this Act, be deemed to be its occupier.

Compare: 1968 No 52 s 2

### **3 Trespass after warning to leave**

- (1) Every person commits an offence against this Act who trespasses on any place and, after being warned to leave that place by an occupier of that place, neglects or refuses to do so.

- (2) It shall be a defence to a charge under subsection (1) if the defendant proves that it was necessary for him to remain in or on the place concerned for his own protection or the protection of some other person, or because of some emergency involving his property or the property of some other person.

Compare: 1968 No 52 s 3

### **4 Trespass after warning to stay off**

- (1) Where any 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 thereafter, warn him to stay off that place.

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

- (3) Where any person is convicted 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) Subject to subsection (5), every person commits an offence against this Act who, being a person who has been warned under this section to stay off any place, wilfully trespasses on that place within 2 years after the giving of the warning.

- (5) It shall be a defence to a charge under subsection (4) 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 his own protection or for the protection of some other person, or because of some emergency involving his property or the property of some other person.

Compare: 1968 No 52 s 4

## **5 Delivery of warnings**

A warning under section 3 or section 4 shall be given to the individual person concerned either orally, or by notice in writing delivered to him or sent to him by post in a registered letter at his usual place of abode in New Zealand.

Compare: 1968 No 52 s 4(2)

## **6 Disturbance of domestic animals by trespasser**

Every person commits an offence against this Act who trespasses on any private land, and—

- (a) by means of a dog, weapon, or vehicle, disturbs any domestic animal on that land; or
- (b) wilfully or recklessly disturbs any domestic animal on that land.

Compare: 1968 No 52 s 5

## **7 Laying of poison or setting of traps on private land**

Every person commits an offence against this Act who, without the authority of an occupier of any private land, or other lawful authority,—

- (a) lays any poison or poisoned bait on that land; or
- (b) sets any trap on that land.

## **8 Gates**

Every person commits an offence against this Act who—

- (a) trespasses on any private land and wilfully—
  - (i) opens and leaves open a shut gate; or
  - (ii) unfastens and leaves unfastened a fastened gate; or
  - (iii) shuts and leaves shut an open gate; or

- (b) with intent to cause loss, annoyance, or inconvenience to any other person,—
  - (i) opens and leaves open a shut gate; or
  - (ii) unfastens and leaves unfastened a fastened gate; or
  - (iii) shuts and leaves shut an open gate—

on or leading to any land used for the farming of domestic animals or of any other animals held under lawful authority.

Compare: 1968 No 52 s 7

## **9 Obligation to give name and other particulars**

- (1) An occupier of any private land upon which any person is found trespassing, or any constable, may require that person to—
  - (a) give particulars of his name and place of abode; and
  - (b) give the number of his firearms licence under the Arms Act 1983 if he is in possession of a firearm.
- (2) If any such person fails or refuses to comply with a requirement made under subsection (1), any constable may caution him and, if he persists in his failure or refusal, may arrest him without warrant.
- (3) Every person commits an offence against this Act who, in response to a requirement under subsection (1),—
  - (a) fails or refuses to comply with that requirement; or
  - (b) gives a false name or place of abode; or
  - (c) wilfully gives particulars of his place of abode that are insufficiently precise to enable it to be identified readily.

Compare: 1968 No 52 s 8; 1977 No 111 s 34

Section 9(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 9(1)(b): substituted, on 1 June 1984, by section 76(1) of the Arms Act 1983 (1983 No 44).

Section 9(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

## **10 Charges**

Proceedings under this Act may be commenced only by an occupier of the place concerned or a constable.

Section 10: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**11 Offences and penalties**

- (1) *[Repealed]*
- (2) Every person who commits an offence against this Act shall be liable on conviction—
- (a) in the case of an offence against section 3 or section 4 or section 12, to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 3 months:
  - (b) in the case of an offence against section 6(a) or section 7, to a fine not exceeding \$300 or to imprisonment for a term not exceeding 1 month:
  - (c) in the case of an offence against section 6(b), to a fine not exceeding \$500 or to imprisonment for a term not exceeding 1 month:
  - (d) in the case of an offence against section 8, to a fine not exceeding \$200:
  - (e) in the case of an offence against section 9, to a fine not exceeding \$500.

Section 11(1): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**12 Weapons**

- (1) Where any person is convicted by any court of an offence against this Act, and it is proved that at the time of the offence he was carrying a weapon or had a weapon with him, the court, instead of or in addition to any other penalty, order, or direction, may make either or both of the following orders:
- (a) an order that the person be disqualified from holding a firearms licence or any other licence or permit under the Arms Act 1983 for such period not exceeding 2 years from the date of the conviction as the court thinks fit:
  - (b) an order that the person shall not carry any weapon, or any weapon of a specified class, for such period not exceeding 2 years from the date of the conviction as the court thinks fit.
- (2) Where an order is made under subsection (1)(a) that a person be disqualified from holding a firearms licence or any other licence or permit under the Arms Act 1983, and at the time of the making of that order that person holds any such licence or permit, his licence or permit shall be deemed to be revoked

during the disqualification; but the disqualification shall not prevent the revocation of his licence or permit under that Act.

- (3) Every person commits an offence against this Act who carries a weapon in contravention of an order under subsection (1)(b).
- (4) Where any person is convicted by any court of an offence against section 6 (being an offence involving disturbance by means of a weapon), the court may, instead of or in addition to any other penalty or order, direct that the weapon involved in the offence be forfeited to the Crown; and in that case that weapon shall be forfeited to the Crown accordingly, and shall be disposed of as the Commissioner of Police directs.

Section 12: substituted, on 1 June 1984, by section 76(2) of the Arms Act 1983 (1983 No 44).

#### **12A Application of Act to public bars**

Notwithstanding anything in sections 187 and 188 of the Sale of Liquor Act 1962 or in section 13 of this Act, this Act shall apply in respect of public bars on—

- (a) any premises in respect of which any hotel premises licence or tavern premises licence is in force under and within the meaning of the Sale of Liquor Act 1962; or
- (b) any premises conducted as a hotel or tavern by any licensing trust pursuant to any of the provisions of the Licensing Trusts Act 1949, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950.

Section 12A: inserted, on 10 July 1987, by section 2 of the Trespass Amendment Act 1987 (1987 No 164).

#### **13 Savings**

Nothing in this Act shall derogate from anything that any person is authorised to do by or under any other enactment or by law, or restrict the provisions of any of the following enactments and instruments:

- (a) section 42 of the Mining Act 1971;
- (b) section 23 of the Civil Aviation Act 1964;
- (c) any enactment or instrument conferring a right of entry on any land.

Compare: 1968 No 52 s 11

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Section 13: amended (with effect on 1 January 1981), on 22 October 1981, by section 2 of the Trespass Amendment Act 1981 (1981 No 99).

**14 Repeal**

The Trespass Act 1968 is hereby consequentially repealed.

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## Notes

### **1** *General*

This is a reprint of the Trespass Act 1980. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### **2** *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3** *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Criminal Procedure Act 2011 (2011 No 81): section 413

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Trespass Amendment Act 1987 (1987 No 164)

Arms Act (1983 No 44): section 76

Trespass Amendment Act 1981 (1981 No 99)