

CHAPTER 155B

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CHAPTER 155B

TRESPASS TO PROPERTY (REFORM)

An Act to reform the law respecting trespass to property.

[24th November, 1980] Commence-
ment.

Preliminary

1. This Act may be cited as the *Trespass to Property (Reform)* Act. Short
title.

2. In this Act, Definitions.
“occupier” includes

- (a) a person who is in physical possession of premises; or
- (b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding there is more than 1 occupier of the same premises;

“premises” means land and structures, or either of them, and includes

- (a) ships and vessels;
- (b) trailers and portable structures designed or used for residence, business or shelter; and
- (c) motor vehicles and aircraft, except while in motion.

PART I

Prohibition of entry on premises

3. Entry on premises may be prohibited by notice to that effect and entry is prohibited without any notice on premises Prohibition
of entry.

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- (a) consisting of a garden, lawn, field, plantation under cultivation or orchard; or
- (b) that is enclosed in a manner that indicates the occupier's intention to keep persons off the premises or to keep animals on the premises.

Notice.

4. (1) Notice under this Act may be given orally or in writing or by means of a sign posted in a conspicuous place on the premises to which it applies so that it is clearly visible from the approach to the normal point of entry to the premises.

(2) A written notice or sign under this section has effect under subsection (1) if it reasonably indicates that entry is prohibited.

(3) For the purposes of this Act, a person has notice not to trespass when he has been given notice to refrain from entering or from remaining on any premises and the notice shall be deemed to have been given by the occupier or a person authorised by him until the contrary is proven.

PART II

Offences respecting Trespass to Property

Petty
Trespass.

5. (1) A person who

- (a) unlawfully enters, in a wanton or insulting or threatening manner upon premises occupied by another person; or
- (b) unlawfully enters upon any premises after having been forbidden to do so by the occupier; or
- (c) having lawfully entered upon premises misconducts himself by behaving in an insulting, annoying or threatening manner; or
- (d) does not leave the premises after he is directed to do so by the occupier or a person authorised by him,

is guilty of an offence.

(2) Subject to subsection (3), where a trespass is committed under this Part by means of a vehicle, the operator of that vehicle is guilty of an offence; and, where the operator is not the owner, the owner of the vehicle is also guilty of an offence.

(3) The owner of a vehicle is only guilty of an offence under this Part if

(a) he is present in the vehicle at the time of the alleged offence;
or

(b) he knowingly permitted his vehicle to be used for the purpose of committing the alleged offence.

(4) It is a defence to a charge under subsections (1) and (2) in respect of premises consisting of land that the person charged reasonably believed that he had title to or an interest in the land that entitled him to enter thereon.

(5) For the purposes of this section "vehicle" has the meaning assigned to it by section 2 of the *Road Traffic Act*.

Cap. 295.

6. (1) A person who without lawful authority, uses or threatens violence for the purpose of securing entry into any premises for himself or for any other person is guilty of an offence if Trespass with violence.

(a) there is someone on those premises at the time who is opposed to the entry which the violence is intended to secure; and

(b) the person using or threatening the violence knows or ought to know that his entry is opposed.

(2) The fact that a person has any interest in or right to possession or occupation of any premises does not, for the purposes of subsection (1), constitute lawful authority for the use or threat of violence by him or anyone else for the purpose of securing his entry into those premises.

(3) It is immaterial for the purposes of this section

(a) whether the violence in question is directed against the person or against property; and

(b) whether the entry which the violence is intended to secure is for the purpose of acquiring possession of the premises in question or for any other purpose.

(4) In proceedings under this section it is a defence for the person charged to prove

- (a) that at the time of the alleged offence he or any other person on whose behalf he was acting was a displaced residential occupier of the premises in question; or
- (b) that part of the premises in question constitute premises of which he or any other person on whose behalf he was acting was a displaced residential occupier and that the part of the premises to which he was seeking to secure entry constitutes an access of which he or, as the case may be, that other person is also a displaced residential occupier,

but nothing in this subsection affects any criminal liability for the use or threat of violence by any such person.

(5) Subject to subsection (6), a person who was occupying any premises as a residence immediately before being excluded from occupation by anyone who entered those premises or any access to those premises, as a trespasser, is a displaced residential occupier of the premises for the purposes of this section so long as he continues to be excluded from occupation of the premises by the original trespasser or by any subsequent trespasser.

(6) A person who was himself occupying the premises in question as a trespasser immediately before being excluded from occupation is not, by virtue of subsection (5), a displaced residential occupier of the premises for the purposes of this section.

Trespass
with
weapon.

7. (1) A person who is on any premises as a trespasser, after having entered as such, is guilty of an offence if without lawful authority or reasonable excuse he has with him on the premises any weapon of offence.

(2) For the purposes of this section, "weapon of offence" means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use.

Trespass
on Foreign
Missions,
etc.

8. (1) Subject to subsection (3), a person who unlawfully enters or is unlawfully on any premises to which this section applies as a trespasser is guilty of an offence.

(2) This section applies to any premises which are or form part of

- (a) the premises of a diplomatic mission within the meaning of that expression as defined in Article 1 (i) of the Vienna Convention on Diplomatic Relations;

- (b) consular premises within the meaning of that expression as defined in paragraph 1(i) of Article 1 of the Vienna Convention on Consular Relations;
- (c) any other premises in respect of which any organisation or body is entitled to inviolability by or under any enactment; and
- (d) any premises which are the private residence, of a diplomatic agent within the meaning of that expression as defined in Article 1(e) of the Vienna Convention on Diplomatic Relations.

(3) In any proceedings for an offence under this section it is a defence for the person charged to prove that he believed that the premises in question were not premises to which this section applies.

(4) In any proceedings under this section a certificate issued by the Minister responsible for Foreign Affairs stating that any premises were or formed part of premises of any description mentioned in paragraphs (a) to (d) of subsection (2) at the time of the alleged offence is conclusive evidence that the premises were or formed part of the premises of that description at that time.

(5) Proceedings under this section may not be instituted against any person except by or with the written consent of the Director of Public Prosecutions.

(6) For the purposes of this section

“Vienna Convention on Consular Relations” means the International Convention on Consular Relations signed in 1963;

“Vienna Convention on Diplomatic Relations” means the International Convention on Diplomatic Relations as set forth in the First Schedule to the *Diplomatic Privileges and Immunities Act*. Cap. 18.

9. (1) A person who

(a) defaces; or

(b) causes or procures the defacing of, any building, structure, wall, fence, tree or pale, without the previous written consent, in each case, of the occupier is guilty of an offence.

Defacing
buildings
etc.

(2) For the purposes of subsection (1), where the defacement, is in the nature of an advertisement, then the person, firm or company sought to be benefitted by that advertisement or his agent in Barbados shall, unless the contrary is proven, be deemed to have caused or procured the defacement.

(3) For the purpose of this section "deface" means

(a) to affix any posting bill or other paper; or

(b) to write, soil or mark, in any manner,
on any building, structure, wall, fence, tree, or pale.

PART III

Identification and Arrest

Identifi-
cation.

10. A member of the Police Force, or an occupier or a person authorised by him may require any person whom he believes, on reasonable and probable grounds, to be on premises, entry to which is prohibited under this Act, to identify himself for the purposes of commencing proceedings under this Act.

Arrest
without
warrant.

11. (1) A member of the Police Force may, without warrant, arrest a person who is, or whom he, with reasonable cause suspects to be guilty of an offence under section 5, 6, 7 or 8.

(2) Where a person who is required to identify himself under section 10 fails or refuses to do so, or there are grounds to believe that the identification given is false, a member of the Police Force or an occupier or a person authorised by him may, without a warrant, arrest that person for the purpose of establishing his identity.

(3) Where the person who makes an arrest under subsection (2) is not a member of the Police Force, he shall forthwith deliver the person arrested to the nearest police officer.

PART IV

Damages and Costs

Damages,
and costs,
etc.

12. (1) Where a person is convicted of an offence under this Act and a person has suffered damage caused by the person convicted

during the commission of the offence, the court shall, on the request of the person bringing the proceedings and, where applicable, with the consent of the person who suffered the damage, determine the damage and shall make a judgment for damages against the person convicted in favour of the person who suffered the damage; but no judgment may be for an amount in excess of the monetary limit on the jurisdiction of the magistrates' courts.

(2) Where a prosecution under this Act is conducted by a person other than a police officer, and the person prosecuted is convicted, the court shall, unless it is of the opinion that the prosecution was not necessary for the protection of the occupier or his interest, determine the actual costs reasonably incurred in conducting the prosecution and shall order that those costs be paid by the person convicted to the person who conducted the prosecution, but in no case may costs so awarded be in excess of the monetary limit on the jurisdiction of the magistrate's court.

(3) A judgment for damages under subsection (1) or an award of costs under subsection (2) shall be in addition to any fine imposed under this Act.

13. A judgment for damages under section 12(1) extinguishes the right of the person in whose favour the judgment is made to bring a civil action against the person convicted in respect of the same facts. Civil action.

14. A judgment for damages and an award of costs under section 12 may be enforced in accordance with the *Magistrates Jurisdiction and Procedure Act*. Enforcement.
Cap. 116.

PART V

Miscellaneous

15. (1) Proceedings under this Act shall be instituted by way of information before the magistrate for the district in which the alleged offence is committed or in which the accused resides. Proceedings.

(2) Where, on the hearing of any information for an offence under this Act, the magistrate is of the opinion that a *bona fide* question of title is raised between the parties, he shall dismiss that

information and may make such order in respect of costs as he determines.

Saving.

16. Nothing in this Act affects or may be construed to affect the right of any person to pass or repass in an orderly and quiet manner through and along a customary path leading from a public highway to villages or premises adjacent thereto.

Penalties.

17. A person guilty of an offence under this Act is liable on summary conviction

- (a) in respect of a first offence, to a fine not exceeding \$250 or imprisonment for 3 months; and
- (b) in respect of a second and subsequent offence, to a fine of \$1 000 or to imprisonment for 6 months.