PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

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CHAPTER T-6

TRESPASS TO PROPERTY ACT

1. In this Act — Definitions

(a) "forest land" means forest land as defined in the *Forest Management Act* R.S.P.E.I. 1988, Cap. F-14, but does not include — forest land

(i) an area which is a tree plantation area or a Christmas tree management area, or

(ii) a commercial berry growing area;

(a.1) "motor vehicle" means a vehicle that is powered, drawn, propelled or driven by any means other than muscular power, whether or not the vehicle is registered under the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, and includes motor boats and motor vessels; — motor vehicle

(b) "occupier" includes — occupier

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

(ii) 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 that there is more than one occupier of the same premises;

(c) "police officer" includes — police officer

(i) a member of a police service, and

(ii) a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1;

(d) "premises" means lands and structures, or either of them, and includes trailers and portable structures designed or used for residence, business or shelter. 1984, c.37, s.1; 2004,c.21,s.1; 2006,c.16,s.63(12). — premises

2. (1) Every person who, without legal justification, whether conferred by an enactment or otherwise, or without the permission of the occupier or a person authorized by the occupier, the proof of which rests upon the person asserting justification or permission, — Prohibition of entry or certain activity on premises

(a) enters on premises that is a lawn, garden, orchard, commercial berry growing area, golf course or acreage managed for the production of agricultural crops;

(a.1) enters on premises that is forest land;

(b) enters on premises that is apparently a tree plantation area or a Christmas tree management area;

(c) enters on premises 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;

(d) dumps or deposits material of any kind or causes, suffers or permits material to be dumped or deposited on premises;

(e) enters on premises where entry is prohibited by notice; or

(f) engages in an activity which is prohibited on the premises by notice,

is guilty of an offence and is liable on summary conviction to a fine of not less than $200 and not more than $2,000.

Form of notice

(2) A notice under this section may be given orally or in writing.

Placement of sign notice

(3) Where the notice in writing is by means of a sign, the sign shall be posted so that it is clearly visible in daylight under normal conditions from the approach to each usual point of access to the premises to which it applies.

Notice may be for part of premises

(4) A notice under this section may be given in respect of any part of the premises of an occupier.

Offence to remove sign

(5) Every person who, without legal justification, whether conferred by an enactment or otherwise, removes a sign or notice posted by an occupier is guilty of an offence and is liable on summary conviction to a fine of not less than $200 and not more than $2,000.

Offence and penalty for non-occupier to post sign

(6) Every person who, not being an occupier of the premises or acting for the occupier of the premises, posts a sign or notice restricting entry or prohibiting activity on premises is guilty of an offence and is liable on summary conviction to a fine of not less than $200 and not more than $2,000. 1984, c.37, s.2; 2004,c.21,s.2.

Offence to remain after request to leave

3. Every person who, without legal justification, whether conferred by an enactment or otherwise, remains on premises after being directed to leave by the occupier of the premises or a person authorized by the occupier is guilty of an offence and is liable on summary conviction to a fine of not less than $200 and not more than $2,000. 1984, c.37, s.3; 2004,c.21,s.3.

Defences

4. (1) It is a defence to a charge under section 2 or 3 that the person charged reasonably believed that he had legal justification, or permission of the occupier or a person authorized by the occupier, to enter on the premises or to do the act complained of.

Idem

(2) It is a defence to a charge of violating a written notice prohibiting entry on premises or engaging in an activity on premises if the person is unable to see or understand the notice.

Arrest and detention

5. (1) A police officer may arrest a person for an offence under the Act and detain that person in custody after the arrest if on reasonable and probable grounds he believes that the arrest and detention is necessary

(a) to prevent the continuation or repetition of the offence; or

(b) to establish the identity of the person.

Conditions for arrest in shopping centre

(2) Notwithstanding the power of arrest conferred by subsection (1), a police officer shall not arrest a person for an offence under this Act committed in a shopping centre having four or more stores unless the person persists in committing the offence after being told to leave the premises and being warned by the occupier or police officer that he may be arrested for the offence if he remains or returns. 1984, c.37, s.5.

Activity disturbing occupier

6. Every person who disturbs an occupier of premises by

(a) the unreasonable operation for recreational purposes of a motor vehicle on, or in the vicinity of, the premises; or

(b) disorderly behaviour,

is guilty of an offence and is liable on summary conviction to a fine of not less than $200 and not more than $2,000. 1984, c.37, s.6; 2004,c.21,s.4.

Duty to identify person in charge of vehicle

7. (1) When a motor vehicle is operated in violation of any of the provisions of this Act, the owner of the vehicle on the request of any police officer shall, within forty-eight hours of the request, supply the police officer with the name and address of the person in charge of the vehicle at the time of such violation.

Duty to identify operator of vehicle

(2) Where under this section the owner of a motor vehicle, at the request of a police officer, supplies the name of a person who had the motor vehicle with the consent of the owner, that person on the request of any police officer shall, within forty-eight hours of the request, supply the police officer with the name and address of the person operating the vehicle at the time of the violation.

Failure to identify operator

(3) An owner or other person who is requested pursuant to this section to supply the name and address of the person operating a vehicle and who refuses, fails, neglects or is unable to supply the name and address of the person operating the vehicle within forty-eight hours after being so requested is liable on summary conviction to a penalty prescribed for the offence of the operator.

Defence under section 7

(4) In any prosecution under this section it shall be a defence if the owner or the person who had the vehicle with the consent of the owner, as the case may be, can prove that the vehicle was being operated at the time of the violation without his knowledge or consent, either expressed or implied. 1984, c.37, s.7.

Right to seize and detain vehicle

8. (1) Where a police officer has reasonable and probable grounds to believe

(a) an offence under this Act has been committed by means of a motor vehicle; and

(b) the seizure of the motor vehicle is necessary to prevent the continuation or repetition of the offence or the commission of another offence under this Act,

the police officer may seize and detain the motor vehicle for such period of time not exceeding forty-eight hours as he considers necessary.

Expenses of seizure and detention

(2) Before the motor vehicle is released, the expenses relating to its seizure and detention under this section shall be paid by the person to whom it is to be released. 1984, c.37, s.8.

Order prohibiting entry by convicted person

9. (1) Where a person is convicted of an offence under this Act in respect of premises generally open to the public, the court may make an order prohibiting that person from entering the premises in relation to which the conviction was entered for a period not exceeding six months.

Failure to comply

(2) A person who is bound by an order made pursuant to subsection (1) and who fails to comply with that order is guilty of an offence and is liable on summary conviction to a fine of not less than $200 and not more than $2,000. 1984, c.37, s.9; 2004,c.21,s.5.

Restitution order

10. (1) Where a person is convicted of an offence under this Act and another person has, as a result of the commission of the offence, suffered damage caused by the person convicted, the court may, on the application of the person who suffered the damage, determine the amount of the damages and order restitution by the person convicted, but no restitution order shall be for an amount in excess of $2,000.

Notice of intent to apply for order

(2) No application may be made under subsection (1) unless the person who suffered the damage has given reasonable notice to the defendant of his intention to make the application.

Costs of private prosecutor

(3) Where a prosecution under this Act is conducted by a private prosecutor, and the defendant is convicted, the court may, unless the court is of the opinion that the prosecution was not necessary for the protection of the occupier or his interests, order a sum not exceeding $2,000 to be paid by the defendant to the private prosecutor by way of costs incurred for the prosecution.

Restitution or costs additional to fine

(4) An order for restitution under subsection (1) or an award of costs under subsection (3) shall be in addition to any fine that is imposed under this Act.

Right of action unaffected

(5) An order for restitution under subsection (1) does not extinguish the right of the person in whose favour the order is made to bring a civil action for damages against the person convicted arising out of the same facts.

Idem

(6) The failure to request or refusal to grant an order for restitution under subsection (1) does not affect a right to bring a civil action for damages arising out of the same facts. 1984, c.37, s.10; 2004,c.21,s.6.

No prosecution of person under twelve years

11. No person under twelve years of age may be prosecuted for violating this Act. 1984, c.37, s.11.

Civil remedy for trespass not restricted

12. Nothing contained in this Act restricts or shall be deemed to restrict the availability of injunctive relief or any other civil remedy for trespass to property that is otherwise available. 1984, c.37, s.12.

No prosecution for recreational activity

13. No person may be prosecuted under section 2 for entering on premises that is forest land in order to

(a) angle;
(b) picnic;
(c) camp;
(d) hike;
(e) ski;
(f) hunt, other than to trap or snare;
(g) carry out any activity involving a study of flora or fauna; or
(h) carry out any other recreational activity,

unless entry on such premises is prohibited by notice. 1984, c.37, s.13; 2004,c.21,s.7.