

TRESPASS ACT

CHAPTER 462

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Definitions

1 In this Act:

“**enclosed land**” includes land that is

- (a) surrounded by a lawful fence defined by or under this Act,
- (b) surrounded by a lawful fence and a natural boundary or by a natural boundary alone, or
- (c) posted with signs prohibiting trespass in accordance with section 5;

“**owner**” in relation to land includes any person entitled to maintain an action of trespass.

Definition of lawful fence

2 The Lieutenant Governor in Council may, by regulation, do one or more of the following:

- (a) define a lawful fence for the purpose of this Act in the area described in the order;
- (b) define a lawful fence for the purpose of dividing the right of way, grounds or property of a railway company to which the *Railway Act* applies from other land, whether belonging to the railway company or not;
- (c) define a lawful fence for the purpose of protecting any stack of hay or grain.

Section 3

Owners in rural area responsible for lawful fence

- 3 (1) Unless otherwise agreed, the owners of adjoining land in a rural area must make, keep up and repair the lawful fence and any natural boundary between their respective land.
- (2) Each of the owners is liable to the other for 1/2 of any cost reasonably incurred for the purposes of subsection (1).
- (3) This section is not binding on the government.

Person on enclosed land without permission is deemed to be a trespasser

- 4 (1) A person found inside enclosed land without the consent of its owner, lessee or occupier is deemed to be a trespasser.
- (2) If it is established in a prosecution under this Act that the defendant was found inside enclosed land, the defendant is presumed to have been inside the enclosed land without the consent of the owner, lessee or occupier of the land.
- (3) The defendant may rebut the presumption by establishing on a balance of probabilities that the defendant had the consent of the owner, lessee or occupier of the enclosed land.

Notices prohibiting trespass must be posted on enclosed land

- 5 (1) A sign prohibiting trespass must be posted at each ordinary access to the enclosed land and must be posted so that, in daylight and under normal weather conditions,
- (a) it is clearly visible, and
 - (b) the writing on it is clearly legible,
- from the approach to the access where the sign is located.
- (2) Substantial compliance with subsection (1) is sufficient for purposes of establishing that the land is enclosed land.

Prosecution not defeated by variation in fence

- 6 A prosecution of a person under this Act is not defeated only because the fence is not of a uniform height, or that the spaces between the bars, boards or rails of the fence, or any of them, are larger than 150 mm.

Penalty for trespassers

- 7 A person commits an offence if the person
- (a) is a trespasser within the meaning of this Act, or
 - (b) continues or enters again on enclosed land after having been notified or required by or on behalf of its owner, lessee or occupier to quit the land.

Power to demand name and address of trespasser

- 8 The owner, lessee or occupier of land on which a trespass has been committed, or a person authorized by the owner, lessee or occupier in that behalf, may demand the name and address of any person trespassing or who has trespassed on the land.

Penalty for refusing to give name

- 9 (1) Anyone who has committed a trespass by entering or being on enclosed land, and on demand made by or on behalf of the owner, lessee or occupier of the land refuses or omits to give his or her name and address, or gives a false name or address, commits an offence.
- (2) Anyone who has entered enclosed land, and has refused or omitted, on demand made by or on behalf of the owner, lessee or occupier of the land, to give his or her name and address, and continues on it, commits an offence.

Arrest without warrant

- 10 (1) In this section, “**peace officer**” includes a conservation officer under the *Wildlife Act*.
- (2) A peace officer may arrest without warrant any person the peace officer believes on reasonable and probable grounds to be inside enclosed land in contravention of section 7.
- (3) If a peace officer believes on reasonable and probable grounds that a person has contravened section 7 and has recently departed from the enclosed land, the peace officer may arrest the person without warrant if
- (a) the person refuses to give his or her name and address to the peace officer on demand, or
 - (b) the peace officer believes, on reasonable and probable grounds, that the name or address given by the person to the peace officer is false.

Trespasser to make good damage

- 11 (1) If a trespasser commits actual damage on land on which the trespasser has trespassed, the Provincial Court may, on the complaint in a summary way of the owner, lessee or occupier of the land, or other party injured, order the trespasser to make good all the damage.
- (2) No action of damage for trespass lies against a trespasser in a case if the Provincial Court, under this Act, has made an order against the trespasser to make good the damage.

Land surveyors entitled to go onto land

- 12 A British Columbia land surveyor and a person assisting a surveyor must, when actually engaged in the discharge of duties, be permitted to pass over all land, enclosed or otherwise, without hindrance from any person.

Section 13

Penalty for refusing assess to land surveyor

- 13 (1) A person refusing to permit a British Columbia land surveyor or a person assisting a surveyor to enter on land, whether cultivated or otherwise, or interfering with the surveyor or the surveyor's assistant in the discharge of duties, commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a period of not longer than 2 months, or to a fine of not more than \$50.

Damage by land surveyor

- 14 If a British Columbia land surveyor or the surveyor's assistant commits damage on land, the Provincial Court, on the complaint in a summary way of the owner or occupier of the land or other party injured, may order the land surveyor to make good all the damage.

Power to make regulations

- 15 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

TRESPASS — HISTORICAL TABLE

Amendments Not in Force

TRESPASS ACT

RSBC 1996, chapter 462

Section	Citation
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7	RS1996 (Supp) -462-1; 1982-72-15.
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Legislative History

TRESPASS ACT

RSBC 1996, chapter 462

Section	History
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1	RS1979-411-1; 1981-21-105.
2	RS1979-411-2; 1981-21-106.
3	RS1979-411-3.
4	RS1979-411-4; 1981-21-107.
5	RS1979-411-4.1; 1981-21-108.
6	RS1979-411-5.
7	RS1979-411-6.
8	RS1979-411-7.
9	RS1979-411-8.
10	RS1979-411-10; 1981-21-108; 1982-57-122.
11	RS1979-411-9, 10.
12	RS1979-411-11.
13	RS1979-411-12.
14	RS1979-411-13.
15	RS1979-411-14.

EXPLANATORY NOTE

Amendments Not in Force: If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

Legislative History: The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".