

2019 Bill 27

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First Session, 30th Legislature, 68 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 27**

**TRESPASS STATUTES (PROTECTING  
LAW-ABIDING PROPERTY OWNERS)  
AMENDMENT ACT, 2019**

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THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 27

2019

### TRESPASS STATUTES (PROTECTING LAW-ABIDING PROPERTY OWNERS) AMENDMENT ACT, 2019

(Assented to \_\_\_\_\_, 2019)

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### Limitations Act

Amends RSA 2000 cL-12

**1(1)** The *Limitations Act* is amended by this section.

**(2)** The following is added after section 5.1:

#### Occupiers

**5.2(1)** In this section,

- (a) “convicted” has the same meaning as in section 12(5) of the *Occupiers’ Liability Act*;
- (b) “criminal trespasser” has the same meaning as in section 12(4) of the *Occupiers’ Liability Act*;
- (c) “occupier” means an occupier as defined in the *Occupiers’ Liability Act*;
- (d) “premises” means premises as defined in the *Occupiers’ Liability Act*.

## **Explanatory Notes**

### **Limitations Act**

**1(1)** Amends chapter L-12 of the Revised Statutes of Alberta 2000.

(2) Occupiers.

(2) In respect of a claim by a criminal trespasser against an occupier for damages for death of or injury to the criminal trespasser on the occupier's premises, the operation of the limitation periods provided by this Act is suspended during the period of time commencing when the conduct giving rise to the claim occurred and concluding when the occupier is convicted of an offence in relation to the conduct under the *Criminal Code* (Canada) that is prosecuted by indictment.

(3) The claimant has the burden of proving that the operation of the limitation periods provided by this Act was suspended under this section.

(4) This section applies to a proceeding in which a claimant seeks a remedial order in relation to a claim that arises on or after January 1, 2018, irrespective of whether the proceeding is commenced before or after the coming into force of this section.

### **Occupiers' Liability Act**

**Amends RSA 2000 cO-4**

**2(1) The *Occupiers' Liability Act* is amended by this section.**

**(2) Section 12 is repealed and the following is substituted:**

#### **Trespassers**

**12(1)** Subject to subsections (2) and (3) and to section 13, an occupier does not owe a duty of care to a trespasser on the occupier's premises.

(2) Where a trespasser is not a criminal trespasser, an occupier is not liable to the trespasser for damages for death of or injury to the trespasser unless the death or injury results from the occupier's wilful or reckless conduct.

(3) Where a trespasser is a criminal trespasser, no action lies against the occupier for damages for death of or injury to the trespasser unless the death or injury is caused by conduct of the occupier that

## **Occupiers' Liability Act**

**2(1)** Amends chapter O-4 of the Revised Statutes of Alberta 2000.

(2) Section 12 presently reads:

*12(1) Subject to subsection (2) and to section 13, an occupier does not owe a duty of care to a trespasser on the occupier's premises.*

*(2) An occupier is liable to a trespasser for damages for death of or injury to the trespasser that results from the occupier's wilful or reckless conduct.*

- (a) is wilful and grossly disproportionate in the circumstances, and
- (b) results in the occupier being convicted of an offence under the *Criminal Code* (Canada) that is prosecuted by indictment.

(4) For the purposes of subsections (2) and (3), a trespasser is a criminal trespasser if the occupier has reasonable grounds to believe that the trespasser is committing or is about to commit an offence under the *Criminal Code* (Canada).

(5) For the purposes of subsection (3), an occupier is deemed not to be convicted of an offence until the period limited by law for the commencement of an appeal from the conviction has elapsed or the appeal taken from the conviction has concluded or been abandoned.

(6) This section applies to any action brought against an occupier by a trespasser on the occupier's premises in relation to a trespass occurring on or after January 1, 2018, irrespective of whether the action is brought before or after the coming into force of this section.

### **Petty Trespass Act**

**Amends RSA 2000 cP-11**

**3(1) The *Petty Trespass Act* is amended by this section.**

**(2) Section 2 is amended**

**(a) by repealing subsections (1) and (2) and substituting the following:**

**(1) No person shall**

- (a) enter on land without the permission of the owner or occupier of the land if entry is prohibited under section 2.1(1), or

### **Petty Trespass Act**

**3(1)** Amends chapter P-11 of the Revised Statutes of Alberta 2000.

**(2)** Section 2 presently reads in part:

*2(1) Every person who*

*(a) without the permission of the owner or occupier of land enters on land when entry is prohibited under section 2.1, or*

*(b) does not leave land immediately after he or she is directed to do so by the owner or occupier of the land or a person authorized by the owner or occupier*

*is guilty of an offence.*

- (b) fail to leave land immediately after being directed to do so by the owner or occupier of the land or a person authorized by the owner or occupier.

**(1.1)** No person shall enter on land without the permission of the owner or occupier of the land if entry is prohibited under section 2.2.

**(1.2)** No corporation shall aid, counsel or direct a person to enter on land without the permission of the owner or occupier of the land if entry is prohibited under section 2.1(1) or 2.2.

**(1.3)** A person who contravenes subsection (1) is guilty of an offence, whether or not any damage is caused by the contravention, and is liable

- (a) in the case of an individual,
  - (i) for a first offence, to a fine not exceeding \$10 000, or to imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment, and
  - (ii) for a 2nd or subsequent offence in relation to the same land, to a fine not exceeding \$25 000, or to imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment,

and

- (b) in the case of a corporation, to a fine not exceeding \$200 000.

**(2)** A person who contravenes subsection (1.1) is guilty of an offence, whether or not any damage is caused by the contravention, and is liable

- (a) in the case of an individual,
  - (i) for a first offence, to a fine not exceeding \$10 000, and
  - (ii) for a 2nd or subsequent offence in relation to the same land, to a fine not exceeding \$25 000,



*(2) A person who is guilty of an offence under subsection (1), whether or not any damage is caused by the contravention, is liable*

*(a) for a first offence, to a fine not exceeding \$2000, and*

*(b) for a 2nd or subsequent offence in relation to the same land, to a fine not exceeding \$5000.*

*(3) It is a defence to a charge under subsection (2) for the accused to establish that the accused had a right or authority conferred by law to be on the land.*

and

(b) in the case of a corporation, to a fine not exceeding \$200 000.

**(2.1)** A corporation that contravenes subsection (1.2) is guilty of an offence, whether or not the person being aided, counselled or directed actually enters on land in contravention of subsection (1) or (1.1), and is liable to a fine not exceeding \$200 000.

**(2.2)** In a prosecution for an offence under this section, it is sufficient proof of the offence to establish that the offence was committed by an agent or employee of the corporation, whether or not the agent or employee is identified or has been prosecuted for or convicted of the offence.

**(2.3)** Where a corporation commits an offence under this section, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of that offence and liable to the penalty provided for the offence, whether or not the corporation has been prosecuted for or convicted of that offence.

**(2.4)** For the purpose of this section, a person who obtains by false pretences permission to enter on land from the owner or occupier of the land is deemed to have entered on the land without permission.

**(b) in subsection (3) by striking out “subsection (2)” and substituting “subsection (1) or (1.1)”.**

**(3) Section 2.1(1) is repealed and the following is substituted:**

**Entry prohibited with notice**

**2.1(1)** Entry on land may be prohibited by notice to that effect

(3) Section 2.1(1) presently reads:

*2.1(1) Entry on land may be prohibited by notice to that effect, and entry is prohibited without any notice on land*

*(a) that is a lawn, garden or land that is under cultivation,*

*(b) that is surrounded by a fence, a natural boundary or a combination of a fence and a natural boundary, or*

**(4) The following is added after section 2.1:**

**Entry prohibited without notice**

**2.2** Entry is prohibited without any notice on land

- (a) that is a lawn or garden,
- (b) that is used for
  - (i) the production of crops, including fruits and vegetables, through the cultivation of land,
  - (ii) the raising and maintenance of animals, including birds and fish, or
  - (iii) the keeping of bees,
- (c) that is surrounded by a fence, a natural boundary or a combination of a fence and a natural boundary, or
- (d) that is enclosed in a manner that indicates the owner's or occupier's intention to keep persons off the land or to keep animals on the land.

**Provincial Offences Procedure Act**

**Amends RSA 2000 cP-34**

**4(1)** The *Provincial Offences Procedure Act* is amended by this section.

**(2)** Section 8(1) is amended by striking out "\$25 000" and substituting "\$100 000".

(c) *that is enclosed in a manner that indicates the owner's or occupier's intention to keep persons off the land or to keep animals on the land.*

(4) Entry prohibited without notice.

#### **Provincial Offences Procedure Act**

**4(1)** Amends chapter P-34 of the Revised Statutes of Alberta 2000.

(2) Section 8(1) presently reads:

*8(1) A justice who convicts a defendant of an offence may, on the application of a person aggrieved, at the time sentence is imposed, order the defendant to pay to the applicant an amount of not more than \$25 000 as compensation for loss of or damage to property suffered by the applicant as a result of the commission of the offence, where the amount is readily ascertainable.*

## **Trespass to Premises Act**

**Amends RSA 2000 cT-7**

**5(1) The *Trespass to Premises Act* is amended by this section.**

**(2) Section 2 is amended by adding the following after subsection (3):**

**(4)** For the purposes of subsection (1), a person who enters on premises having obtained by false pretences permission to enter on the premises from the owner of the premises or an authorized representative of the owner of the premises is deemed to have trespassed on the premises.

**(3) Section 3 is repealed and the following is substituted:**

### **Offences and penalties**

**3(1)** A trespasser, whether or not any damage is caused by the trespass, is guilty of an offence and liable

- (a) in the case of an individual,
  - (i) for a first offence, to a fine not exceeding \$10 000, or to imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment, and
  - (ii) for a 2nd or subsequent offence in relation to the same premises, to a fine not exceeding \$25 000, or to

## Trespass to Premises Act

5(1) Amends chapter T-7 of the Revised Statutes of Alberta 2000.

(2) Section 2 presently reads:

*2(1) No person shall trespass on premises with respect to which that person has had notice not to trespass.*

*(2) For the purposes of subsection (1), notice not to trespass may be given to a person*

*(a) orally or in writing by the owner or an authorized representative of the owner, or*

*(b) by signs visibly displayed*

*(i) at each of the entrances normally used by persons to enter the premises, and*

*(ii) in the case of premises referred to in section 1(c)(ii), at all fence corners or, if there is no fence, at each corner of the premises.*

*(3) For the purposes of subsection (1), a person is deemed to have had notice not to trespass when signs are displayed in accordance with subsection (2)(b).*

(3) Section 3 presently reads:

*3 A trespasser, whether or not any damage is caused by the trespass, is guilty of an offence and liable*

*(a) for a first offence, to a fine not exceeding \$2000, and*

*(b) for a 2nd or subsequent offence in relation to the same premises, to a fine not exceeding \$5000.*

imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment,

and

(b) in the case of a corporation, to a fine not exceeding \$200 000.

**(2)** A corporation that aids, counsels or directs a person to trespass on premises, whether or not the person actually commits the trespass, is guilty of an offence and liable to a fine not exceeding \$200 000.

**(3)** In a prosecution for an offence under this section, it is sufficient proof of the offence to establish that the offence was committed by an agent or employee of the corporation, whether or not the agent or employee is identified or has been prosecuted for or convicted of the offence.

**(4)** Where a corporation commits an offence under this section, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of that offence and liable to the penalty provided for the offence, whether or not the corporation has been prosecuted for or convicted of that offence.









