



TRESPASS LEGISLATION

Frequently Asked Questions

1. What legislation is being developed?

The Northwest Territories (NWT) is developing a Trespass Act (the “Act”).

2. What is trespassing?

Trespassing is the illegal act of entering or staying on someone else’s property without permission.

3. What is the purpose of this legislation?

Trespassing laws are important for protecting property rights and maintaining civil order. This includes deterring potentially criminal behaviour and damage that trespassers may cause.

Trespassing is regulated by a mix of federal, provincial, or territorial legislation and the common law through the tort of trespass to land. The NWT lacks an act governing trespassing on private property, meaning that lawful occupiers have limited tools to remove trespassers from their property. The Act seeks to resolve this problem.

4. What does “lawful occupier” mean?

A lawful occupier is a person who owns or who has responsibility for or control over a property. A homeowner, a tenant, or someone with a sublease agreement would typically be considered examples of lawful occupiers.

5. How is the legislation being developed?

The Policy and Planning Division of the Department of Justice is developing the legislation. The legislation is an immediate concern for NWT residents and is being developed on an accelerated schedule.



6. What other jurisdictions have Trespass legislation?

All provinces have trespassing legislation. No territories have legislation governing trespassing on private property, though Yukon has legislation governing trespassing on school grounds. The federal *Criminal Code* has a limited trespassing offence that only applies to a person who, without lawful excuse, loiters or prowls at night on the property of another person near a dwelling-house situated on that property, which does not cover many scenarios in which trespassing occurs.

7. Will this Act have penalties for trespassing, including costs and restitution for damages?

Damage or loss of property is an important concern for the owners and lawful occupiers of a property. Damage caused by a trespasser may reduce the value of a property and cause unexpected costs to an owner or lawful occupier.

Restitution is a requirement for an offender to pay the landowner or lawful occupier for financial losses they suffered because of unlawful conduct.

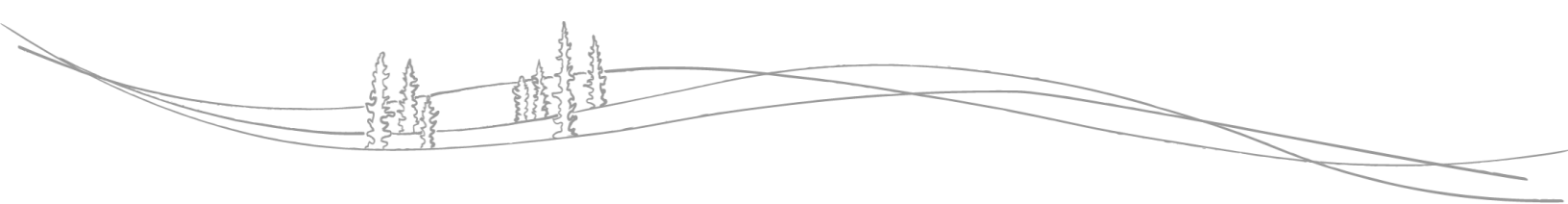
Most provinces allow for restitution to be ordered for loss or damage to property caused by a trespasser. Based on feedback received from the public engagement, the proposed legislation may include a process for obtaining a restitution order for damages caused to the property when there is a violation of the Act.

8. Will this legislation reduce crime and drugs in the NWT?

Trespassing legislation may deter potentially criminal behaviour and damage that trespassers can cause by preventing them from being on the property without permission in the first place. The legislation may also help prevent crime against businesses, including, for example, by assisting businesses in removing individuals from their properties who have caused damage or stolen goods in the past.

9. Will this legislation allow the RCMP to immediately shut down drug houses in my community?

No, though the legislation can prevent drug dealers from accessing property where they do not have the permission of a lawful occupier to be there and allow for their arrest if they violate the law.



10. Will this legislation affect finalized Land Claim Agreements and Self-Government Agreements in the Northwest Territories?

The Act will in no way affect Indigenous rights under the *Constitution Act, 1982* or any modern treaties or asserted rights. A consultation assessment has been undertaken to confirm there is no duty to consult regarding section 35 of the *Constitution Act, 1982*.

11. Will this legislation prevent access to public lands?

No. The proposed Trespass Act is intended to apply to private property. Public land access is governed by other legislation, such as the *Commissioner's Land Act* and *Northwest Territories Lands Act*.

