

Trespass Act 6 of 1959 (TPA)

Topic: Safety

IN A CALABASH

Introduction

Privacy is a right afforded to all South Africans under the Constitution of the Republic of South Africa, 1996. Any person who lawfully owns or occupies a home, office, park, farm or any piece of land or property has the right to decide who is allowed to enter or gain access to and/or remain on that property.

In order to give effect to this entrenched right the Trespass Act (TPA) was brought into operation. The Act states that no person may obtain unlawful or unauthorised access to anyone's property.

Objectives of the Act

The TPA prevents any unlawful and unauthorised access or entry to land or buildings.

Application of the Act and its implication to Tourism

The TPA applies to owners and lawful occupiers of land or property and to all persons who may want to enter or access such property or land.

Summary of the provisions of the Act

All owners and/or lawful occupiers of any land, property or establishment have the right to decide who is allowed to enter into and remain on that property or land.

In many cases in South Africa today, properties are fenced off and access is strictly controlled.

In order to give full force and effect to the TPA, all owners or legal occupiers of any property should erect a fence or boundary wall around the property which will be gated and signs should be erected stating that unauthorised or unlawful access is not allowed.

Owners of places to which the public has access should hang up a sign stating that where entry is permitted, this will be at that person's own risk. This sign is known as a disclaimer.

Access control onto company premises

The entity should make sure that it places a sign up in prominent areas stating that access to its property, premises, land or building is reserved and that such owner or lawful occupier reserves the right to deny any person access to such property, land or building.



WHAT HAPPENS IF YOU DO NOT COMPLY?

Where any person unlawfully and without permission enters any land or building, such person will be guilty of a criminal offence and liable to a fine of up to R2 000 and/or imprisonment for a period for up to 2 years.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

In order to demonstrate compliance with the Act, the following physical controls and measures must be in place:

- Ensuring that property is surrounded by either borders, fences or gates;
- Notices should be up declaring the following: 'No unauthorised entry';
- Security procedures and a reservation of rights disclaimer must be in place;
- 'Only authorised persons' and 'Enter at Your Own Risk' notices should be displayed; and
- Ensure that property is access controlled and that all persons entering the property must sign in before access to premises is granted.

FURTHER INFORMATION

Regulator

Department of Justice and Constitutional Development

Website

www.justice.gov.za