



# SOLVING NEIGHBOURHOOD PROBLEMS

## Series: Solving Neighbourhood Problems

### Part 2 of 12: Trespass and Responsibility for Visitors

Trespass occurs when someone comes onto your property without permission and refuses to leave when you ask him or her to do so. In a strata scheme this is most likely to happen when somebody parks in a car park space, which is on title or the subject of a right of exclusive use. In a townhouse complex, throwing objects into a neighbour's yard, allowing fruit or branches to fall from a tree into a neighbour's yard, or leaving rubble or waste on a neighbour's yard could constitute trespass. Allowing a pet onto a neighbour's property could also be considered trespass.

Common Law	Statutory Law to Prevent Trespass
<p>Trespass involves unauthorised interference with a person's possession of land (so tenants have rights as well).</p> <p>You do not need to prove damage to your property, just that the trespass occurred.</p> <p>Remedies include taking reasonable force to remove the trespasser, suing for damages and an injunction to restrain continuing trespass</p>	<p>Summary Offences Act 1966 s.9(1) and Crimes Act 1958 s.76(1), 462 A.</p>

### Legal Entry

On some occasions, entering another person's land without permission is legal. Implied entries are permissible e.g. a salesman or a friend. Express entries are permissible e.g. if you hold a garage sale. In all states and territories, a body corporate or owners corporation has express entry provisions upon notice and without notice in circumstances of urgency.

### Duty of Care to Trespassers

All occupiers have a duty of care to anyone who comes onto their property including trespassers on the grounds of 'common humanity'.

**Next week: Part 3—Noise**