



RURAL ACTION MOVEMENT (QUEENSLAND)

TRESPASS

BY DEFINITION

Civil

A trespass will occur whenever there is interference with another's exclusive possession of property, regardless of whether any damage has been done. Trespass originated as a remedy for forcible breach of the King's peace, aimed against acts of intentional aggression.

The proprietary aspect of this tort became more dominant when it was later used for the purpose of settling boundary disputes, and preventing the acquisition of easements by prescriptive use. Consequently civil trespass came to be associated with preserving the rights and privileges of private property owners.

The principles associated with trespass have been recently reaffirmed by the High Court in Australia in *Plenty v Dillon*. The High Court has held that without the consent of the person in possession, or entitled to possession of land, and without any implied leave or licence, the common law does not entitle anyone to go onto another person's land.

Remedies are available when a trespass occurs. These remedies include injunctions to prevent actual or threatened encroachment on the property, and damages.

Damages will be awarded in vindication of a landowner's right to exclude a trespasser from the property, regardless of whether any loss has been suffered by the owner (or occupier).

Compensation will also be awarded where the trespass has caused actual damage to the land itself and/or buildings on the land.