



# **THE OFFENSE OF CRIMINAL TRESPASS IN TANZANIA**

## **INTRODUCTION.**

Criminal trespass involves being on someone else's property without permission. But the crime isn't as simple as just being where you're not supposed to. Whoever enters into or upon property in possession of another with **intent** to commit an offence or to intimidate, insult or annoy any person in possession of such property, commits crime in Tanzania.

Section 299 of the penal code, [CAP. 16 R.E. 2022] provides for the criminal trespass in Tanzania and defines the same to mean unlawfully entrance into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of the property. Criminal trespass goes further to the having lawfully entered into or upon the property and unlawfully remains with intent thereby to intimidate, insult or annoy the person in possession of the property or with intent to commit an offence.

A person who commits this type of offence is guilty of "criminal trespass" as an offence and becomes liable to imprisonment for three months, and where the property upon which the offence is committed is any building, tent or vessel used as a human dwelling or any building used as a place of worship or as a place for the custody of property, the offender is liable to imprisonment for one year.

## **ELEMENTS OF CRIMINAL TRESSPASS.**

The typical elements of the criminal trespass are as follows:

- **INTENT.** This means, intentionally entering or remaining on someone else's property without authorization. For one to commit criminal trespass, must either go onto property knowing that he/she doesn't have permission to be or remain on property. Accidentally wandering onto someone's land while hiking, for example, typically isn't considered as criminal trespass.
- **WARNING / NOTICE REQUIRED.** In proving criminal trespass, mostly there must be a warning that you aren't allowed to be on property before you can be convicted for trespassing on the property. While a property owner can directly tell a trespasser to leave the premises, in many states, there are other ways to provide notice that property is off limits. For example, a sign saying "No Trespassing," a fence around the property, or a locked door to the property.



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The rule is that any person can be guilty of trespassing in a public place even if allowed to enter a place that's open to the public (such as a store or park). One can still be convicted of criminal trespass if he/she stays after the space closes or fail to leave after you're ordered to do so.

### **OFFENCES AMOUNTING TO CRIMINAL TRESPASS IN TANZANIA.**

In Tanzania, Specific acts amounts to criminal trespass though many states have a general description of trespassing and outline specific acts that count as the crime. Here are some of them:

- **HOUSE BREAKING AND BURGLARY**

In Tanzania, Criminal trespass is related to house breaking and burglary but is generally considered to be a less serious crime. It's often a misdemeanor or an infraction. Section 294 of the penal code provides that, a person who breaks and enters any building, tent or vessel used as a human dwelling with intent to commit an offence therein; or having entered any building, tent or vessel used as a human dwelling with intent to commit an offence is guilty of housebreaking and is liable to imprisonment for fourteen years. When the same offence is committed in the night it amounts to burglary and the offender is liable to imprisonment for twenty years.

### **OTHER OFFENCES RELATING TO HOUSE BREAKING AND BURGLARY.**

The penal code further provides other offences amounting to criminal trespass in Tanzania. These are;

- **Section 295** of the penal code provides for an offence where one enters or is in any building, tent or vessel used as a human dwelling with intent to commit an offence therein, is guilty of an offence, and liable to imprisonment for ten years. And if such offence is committed in the night, he is liable to imprisonment for fourteen years.
- Also, **section 296** of the penal code provides another related offence to housebreaking and burglary where a person breaks and enters a school house, shop, warehouse, store, workshop, garage, office or counting house, or a building which is adjacent to a dwelling house and occupied with it but is not part of it, or any building used as a place of worship and commits an offence therein. The law provides a punishment toward such offence that a person shall be liable to imprisonment for ten years.



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- Further, **Section 297** of the penal code also provides another related offence amounting to criminal trespass where a person who breaks and enters a school house, shop, warehouse, store, workshop, garage, office or counting house, or a building which is adjacent to a dwelling house and occupied with it but is not part of it, or any building used as a place of worship, with intent to commit an offence therein, is guilty of an offence, and is liable to imprisonment for fourteen years.

### **CONCLUSION.**

Conclusively, in addition to criminal charges amounting to the criminal trespass in Tanzania, a trespasser can also face civil liabilities as governed by the civil procedure code, CAP 33 R.E.2022. This is because that “trespass” is a violation of someone’s property rights, thus a property owner can sue a trespasser for money, even if the trespasser didn’t cause any harm. (If the trespasser’s presence didn’t hurt anyone or damage property, though, the plaintiff will likely only be able to recover nominal damages.) Property owners can sometimes sue not only for money, but also for an order putting a stop to a continuing trespass.