

THE CATTLE – TRESPASS ACT, 1871 (I of 1871)

CONTENTS

1. Title and extent
2. Repealed
3. Interpretation – clauses
4. Establishment of pounds
5. Control of pounds, rates of charge for feeding impounded cattle
6. Appointment of pound – keeper
7. Duties of pound - keepers
8. To register seizures
9. To take charge of and feed cattle
10. Cattle damaging land
11. Cattle damaging public roads, canals and embankments
12. Fines for cattle impounded
13. Procedure when owner claims the cattle and pays fine and charges
14. Procedure if cattle be not claimed within a week
15. Delivery to owner disputing legality of seizure but making deposit
16. Procedure when owner refuses or omits to pay the fines and expenses
17. Disposal of fines, expenses and surplus proceeds of sales
18. Repealed
19. Officers and pound-keepers not to purchase cattle at sale under act
20. Power to make complaints
21. Procedure on complaint
22. Compensation for illegal seizure or detention
23. Recovery of compensation
24. Penalty for forcibly opposing the seizure of cattle or rescuing the same
25. Recovery of penalty for mischief committed by causing cattle to trespass
26. Penalty for damage caused to land or crops or public roads by pigs
27. Penalty on pound-keeper failing to perform duties
28. Application of fines recovered under section 25,26 or 27.
29. Saving or right to sue for compensation
30. Set-off
31. Power for provincial government to transfer certain functions to local authority and direct credit of surplus receipts to local fund

TEXT

THE CATTLE – TRESPASS ACT, 1871 (I of 1871)

[13th January, 1871]

An Act

to consolidate and amend the law Relating to trespasses by cattle

Preamble.- WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle; It is hereby enacted as follows:-

CHAPTER-I PRELIMINARY

1. Title and extent.– (1) This Act may be called the Cattle- trespass Act, 1871; and

(2) It extends to² all the Provinces and the ³Capital of the Federation except ⁴such local areas as the ⁵Provincial Government, by notification in the Official Gazette, may from time to time exclude from its operation.

⁶(3)XXXXXXXX

2. (repealed) .–(By repealing Act-I of 1938)

3. Interpretation – clauses.–In this Act,

“Officer of police” includes also village-watchmen and

“cattle” includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs rams, ewes, sheep, lambs, goats and kids, and

“local authority” means anybody of persons for the time being invested by law with the control and administration of any matters within a specified local area,

⁷“local fund” means any fund under the control or management of a local authority.

CHAPTER-II POUNDS AND POUND KEEPERS

4. Establishment of pounds.–Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Provincial Government, from time to time directs. The village by which every pound is to be used shall be determined by the Magistrate of the District.

5. Control of pounds; Rates of charge for feeding impounded cattle.–The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

6. Appointment of pound – keeper.–The Provincial Government shall appoint a pound-keeper for every pound.

POUND – KEEPER MAY HOLD OTHER OFFICES:-

Any pound – keeper may hold simultaneously any other office under the Crown.

POUND – KEEPERS TO BE PUBLIC SERVANTS:-

Every pound keeper shall be deemed to be a public servant within the meaning of the Pakistan Penal Code.

7. DUTIES OF POUND – KEEPERS

To keep registers and furnish returns

¹ Subs. By Cattle-Trespass Act (1971) (Amendment) Act, 1891 (I of 1891)

² Subs by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), S. 3 and 2nd Sch. (with effect from the 14th October, 1955) for all the Provinces and the Capital of the Federation” which subs. For “the whole of British India” by A.O. 1949, Arts. 3 92) & 4.

³ This Act has been declared in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913).

⁴ The words “the Presidency-towns and” omitted by A.O. 1949, Sch.

⁵ Subs. By A.O. 1937 for “Local Government”.

⁶ Sub-section (3) repealed by the Repealing and Amending Act, 1914 (10 of 1914).

⁷ Ins. By Act I of 1891, S.2.

Every pound-keeper shall keep such registers and furnish such returns as the Provincial Government from time to time directs.

8. To register seizures.— When cattle are brought to a pound, the pound-keeper shall enter in his register:-

- (a) The number and description of the animal,
- (b) The day and hour on and at which they were so brought,
- (c) The name and residence of the seizer, and
- (d) The name and residence of the owner, if known, and shall give the seizer or his agent a copy of the entry.

9. To take charge of and feed cattle.— The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

CHAPTER-III IMPOUNDING CATTLE

10. Cattle damaging land.— The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce of any land, or the vendee or mortgagee of such crop or produce of any part thereof may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situated.

Police to aid seizures:-

All officers of police shall, when required, aid in preventing

- (a) Resistance to such seizures, and
- (b) Rescues from persons making such seizures.

11. Cattle damaging public roads, canals and embankments.— Persons in charge of public roads, pleasure-grounds, plantation canals, drainage-works, embankments and the like and officers of police, may seize, or cause to be seized any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works embankments or found straying thereon.

And shall send them or cause them to be sent within twenty- four hours to the nearest pound.

⁸12. Fines for cattle impounded:- For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine in accordance with the scale for the time being prescribed by the Provincial Government in this behalf by notification in the Official Gazette, Different scales may be prescribed for different local areas,

All fines so levied shall be sent to the Magistrate of the District through such officer as the Provincial Government may direct.

LIST OF FINES AND CHAGES FOR FEEDING:-

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound.

CHAPTER-IV DELIVERY OR SALE OF CATTLE

13. Procedure when owner claims the cattle and pays fine and charges.— If the owner of the impounded cattle or his agent appears and claims the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent, on taking back the cattle – shall sign a receipt for them in the register kept by the pound-keeper.

14. Procedure if cattle be not claimed within a week.—If the cattle be not claimed within seven days form the date of their being impounded, the pound-keeper shall report the fact to the officer-in-charge of the nearest police-station,

⁸ Subs. By the Cattle-trespass (amendment) Act, 1921, (17 of 1921) S 2 for the original S. 12. Reference may be made to s. 71 of the Forest Act, 1927 (16 of 1927) under which the Provincial government may fix a different scale of fines for cattle impounded under section 70 of that Act.

or to such other officer as the Magistrate of the District appoints in this behalf. Such officer shall thereupon stick up in a conspicuous part of his office a notice stating:-

- (a) The number and description of the cattle.
- (b) The place where they were seized.
- (c) The place where they are impounded.

And shall cause proclamation of the same to be made by beat of drum in the village and at the market place nearest to the place of seizure. If the cattle be not claimed within seven days from the date of the notice they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair, price if sold as aforesaid, they may be disposed of in such manner as he thinks fit

15. Delivery to owner disputing legality of seizure but making deposit.— If the owner or his agent appears and refuses to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 20, then upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

16. Procedure when owner refuses or omits to pay the fines and expenses.— If the owner or his agent appears and refuses or omits to pay or (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer at such place and time, and subject to such conditions, as are referred to in section 14.

DEDUCTION OF FINES AND EXPENSES:-

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

DELIVERY OF UNSOLD CATTLE AND BALANCE OF PROCEEDS

The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing:-

- (a) The number of cattle seized,
- (b) The time during which they have been impounded.
- (c) The amount of fines and charges incurred,
- (d) The number of cattle sold.
- (e) The proceeds of sale, and
- (f) The manner in which those proceeds have been disposed of.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase money (if any) paid to him according to such account.

17. Disposal of fines, expenses and surplus proceeds of sales.— The Officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13. The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, be deemed to hold them as part of revenues of the Province.

18. (Repealed):- (By A.O.1937)

19. Officers and pound-keepers not to purchase cattle at sale under Act.— No officer of police or other officer or pound-keeper appointed under the

provisions herein contained shall, directly or indirectly, purchase any cattle as a sale under this Act.

POUND-KEEPERS WHEN NOT TO RELEASE IMPOUNDED CATTLE

No pound-keeper shall release or delivery any impounded cattle otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

CHAPTER-V⁹ COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION

20. Power to make complaints.— Any person whose cattle have been seized under this Act, or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

21. Procedure on complaint.— The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded he shall summon the person complained against, and make an enquiry into the case.

22. Compensation for illegal seizure or detention.— If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle,

RELEASE OF CATTLE

And, if the cattle have not been released. The Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person whom made the seizure or detained the cattle

23. Recovery of compensation.— The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate.

CHAPTER-VI PENALTIES

24. Penalty for forcibly opposing the seizure of cattle or rescoring the same.— Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescuers the same after seizure, either from a pound or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act. Shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

25. Recovery of penalty for mischief committed by causing cattle to trespass.— Any fine imposed under the next following section or for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed. Whether they were seized in the act or trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

26. Penalty for damage caused to land or crops or public roads by pigs.—¹⁰[Any owner or keeper of pigs who, through neglect or otherwise damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees. The Provincial Government, by notification in the Official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the

⁹ Chapter V is in the form as substituted by Act I of 1891.

¹⁰ Ins, by Act I of 1891.

foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "fifty rupees" were substituted for the words "ten rupees" or as if there were both such reference and such substitution.]

27. Penalty on pound-keeper failing to perform duties.—Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees. Such fines may be recovered by deductions from the pound-keeper's salary.

28. Application of fines recovered under section 25, 26 or 27.—All fines recovered under section 25, section 26, or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

CHAPTER-VII SUITS FOR COMPENSATION

29. Saving or right to sue for compensation.—Nothing herein contained prohibits any person whose crops or other produce or land have been damaged by trespass of cattle from suing for compensation in any competent Court.

30. Set-Off.—Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

CHAPTER-VIII¹¹ SUPPLEMENTAL

31. Power for Provincial Government to transfer certain functions to local authority and direct credit of surplus receipts to local fund.—The Provincial Government may, from time to time, by notification in the Official Gazette:-

- (a) Transfer to any local authority within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Provincial Government or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority.

¹¹ New chapter VIII added by Act I of 1891, S.9