

**POUNDS ACT (CISKEI)
NO. 43 OF 1984**

[ASSENTED TO BY THE PRESIDENT ON THE 29 NOVEMBER, 1984 – ENGLISH TEXT SIGNED.]

[DATE OF COMMENCEMENT: 7 DECEMBER, 1984]

as amended by

Pounds Amendment Act, No. 14 of 1985

Agricultural Development Act, No. 14 of 1989

GENERAL NOTE

In terms of Proclamation No. 111 of 17 June, 1994, the administration of Act No. 43 of 1984 has been assigned to this Province.

ACT

To consolidate and amend the laws relating to the establishment, administration and control of pounds and the impoundment of animals and to provide for incidental matters.

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1. Definitions.—In this Act, unless the context otherwise indicates—

“**adequately fenced**” means enclosed by a fence, wall or other obstruction through, over or under which no animal is able to go without breaking it, or enclosed by any natural boundary through or over which no animal would ordinarily pass;

“**aggravated trespass**” means trespass on at least two occasions within the space of fourteen days by the same animal belonging to the same owner;

"animal" means any bovine animal, horse, mule, donkey, sheep, goat, pig or ostrich;

"Authorities Act" means the Administrative Authorities Act, 1984 (Act 37 of 1984);
[Definition of "Authorities Act" substituted by s. 1 (a) of Act 14 of 1985.]

"by-laws" means a by-law by a municipal council under section 188 of the Municipal Ordinance;

"chief" means a chief as defined in section 1 of the Authorities Act;

"department" means the Department of the Minister;

"driving fee" means the driving fee prescribed in Table A of Schedule 1;

"Gazette" means the Government Gazette of the Republic of Ciskei;

"Government pound" means a pound established in terms of section 2 (1) (b);

"headman" means a headman as defined in section 1 of the Authorities Act;

"horse" includes a mule or a donkey;

"landowner" means the owner, lessee or other lawful occupier of land;

"Minister" means the Minister of Internal Affairs and Land Tenure;

"Municipal Ordinance" means the Municipal Ordinance, 1974 (Ordinance 20 of 1974);

"municipal pound" means a pound established or deemed to have been established in terms of section 180 of the Municipal Ordinance;

"officer of the Government" means any officer or employee of the Department of Agricultural, Forestry and Rural Development Act;
[Definition of "officer of the Government" amended by para. (2) (a) of Part 1 of Schedule 5 to Act 14 of 1989.]

"owner", in relation to any animal, includes any agent of, or caretaker for the owner and any other person in lawful possession of such animals;

"police official" means any member of the Ciskeian Police and includes a traffic officer as defined in section 1 of the Ciskeian Road Traffic Act, 1977 (Act 10 of 1977) and any member of the Railway Police Force;
[Definition of "police official" amended by s. 1 (b) of Act 14 of 1985.]

"pound authority", in relation—

- (a) to a Government pound, means the department;
- (b) to a municipal pound, means the municipal council administering such pound;
- (c) to a tribal authority pound, means the tribal authority by whom such pound was established;

"pound book" means the pound book referred to in section 4;

"poundmaster", in relation—

- (a) to a Government pound or tribal authority pound, means a poundmaster appointed under the appropriate provision of section 2 (1);
- (b) to a municipal pound, means a poundmaster appointed under a section of the Municipal Ordinance;

"prescribed" means prescribed, as the case may be, by regulation under this Act or by any by-law;

"stallion" means any male horse, mule or donkey, which has been castrated, whether wholly or partially;

"tribal authority" means a tribal authority as defined in section 1 of the Authorities Act;

"tribal authority pound" means a tribal authority pound established in terms of section 2 (1) (a).

2. Pounds.—(1) For the purposes of this Act—

- (a) a tribal authority may, within its area and out of its funds, establish one or more pounds which shall be known as tribal authority pounds and, if it establishes any such pound, it shall appoint therefor a poundmaster who may be a part-time or whole-time employee of the tribal authority or otherwise conduct such pound subject to the terms and conditions of an agreement to be entered into with the tribal authority; and
- (b) the Minister may, out of moneys appropriated by the National Assembly for the purpose and in any area in which there is no tribal authority pound or municipal pound, establish one or more pounds which shall be known as Government pounds and, if he established any such pound there shall be

appointed therefor, subject to the laws governing the public service, a poundmaster who may be a part-time or whole-time officer or employee of the department or otherwise conduct such pound subject to the terms and conditions of an agreement to be entered into with the department.

(2) A tribal authority or the Minister may at any time disestablish a pound which has been established under subsection (1) by such authority or the Minister, as the case may be.

(3) The establishment or disestablishment of a pound under this section shall be made known by notice—

- (a) displayed at the office of the magistrate of the district and also at the office of every tribal authority concerned; and
- (b) delivered to every headman in the area affected thereby, who shall convey the contents of such notice to the persons under his control.

(4) Unless the pound authority has authorized otherwise, every pound shall consist of not less than three enclosures for the separate detention of the various animals detained therein in such manner as may, with due regard to the provisions of this Act, be appropriate in the circumstances.

3. Duties, powers and obligations of poundmaster.—(1) A poundmaster—

- (a) shall maintain the pound under his control in good repair and free from infection and shall ensure that it is adequately protected against fire;
- (b) shall, subject to the provisions of this Act, accept for impoundment all animals tendered at his pound between the hours of sunrise and sunset and may accept any animals so tendered at any later hour: Provided that, if he refuses to accept any animal, he shall forthwith record in the pound book the reason for such refusal;
- (c) shall give the person from whom any such animals are received such receipt in writing as may be prescribed or, if no receipt has been prescribed, a receipt showing—
 - (i) the name and address of the person who tendered such animals at the pound;
 - (ii) the number, kind and description of the animals;
 - (iii) the alleged trespass and damage (if any) in respect of which the animals are being impounded;
 - (iv) the name and address of the landowner of the land on which the alleged trespass occurred;
 - (v) the name and address (if known) of the owner of the animals;
 - (vi) the distance (in kilometres) by the nearest travelling route between the pound and the place where the animals were found to be trespassing and, where an ostrich is to be impounded, the number of persons necessarily employed in driving such ostrich to the pound;
 - (vii) whether the claim is for ordinary trespass or aggravated trespass or for special compensation; and
 - (viii) if any animal has any perceptible injury, the nature of such injury;
- (d) shall pay to the person who delivered any animal for impoundment, unless such person impounded such animal in the execution of his duty as an officer or employee of the Government or other pound authority or as a police official, the driving fee referred to in section 7 (1) (a);
- (e) shall without delay notify the owner of every animal accepted for impoundment that such animal is in the pound, if the identity of such owner is known and he has not already (under any other provision of this Act) been advised of such impoundment;
- (f) shall refrain from working, riding or otherwise using any impounded animal;
- (g) shall ensure that a sufficient supply of water is at all times available to every impounded animal;
- (h) shall retain in his possession every impounded animal until it is lawfully released or sold in terms of this Act;
- (i) shall isolate every impounded animal which appears to be suffering from disease and forthwith notify a stock inspector of the presence of such animal in the pound;
- (j) shall cause to be dipped every animal which is subject to compulsory dipping;
- (k) shall, when any animal is released from the pound or is sold in terms of this Act, issue a receipt (which, if a receipt is prescribed shall be such prescribed receipt) for the amount received in respect of such animal;
- (l) shall, when he releases any animal from impoundment obtain from the person to whom such animal is released a receipt for such animal;
- (m) shall, when he makes payment to any person in respect of or in relation to any impounded animal or

any money whatsoever (except when payment is made by cheque), obtain a receipt from such person;

- (n) shall keep a copy of this Act at or near his pound and make such copy available for inspection free of charge by any interest person; and
- (o) shall do all such other things as may be provided for in this Act or as may be prescribed.

(2) Every poundmaster shall keep and feed separately every stallion of or above the apparent age of two years, every bull having one pair or more than one pair of permanent incisors well up, every ram or boar of or above the apparent age of nine months and every animal which, because of infection with a disease or on account of any dangerous vice or other reason, is unfit to run with the other animals in the pound.

[Sub-s. (2) amended by s. 2 of Act 14 of 1985.]

(3) Every poundmaster who, without lawful excuse, refuses or fails to accept any animal tendered at his pound between the hours of sunrise and sunset shall be liable to the owner of such animal or to any other person for any damage caused to such owner or person by reason of such refusal or failure.

(4) A poundmaster shall be liable for any loss sustained by the owner of any impounded animal arising from the death or injury of such animal as a result of any act of commission or omission on the part of himself or any person acting on his behalf.

(5) (a) When any impounded animal dies or is injured the poundmaster shall forthwith—

- (i) advise the owner of such animal, if he is known, of such death or injury, and
- (ii) enter in his pound book the particulars of such animal and the cause of its death or injury.

(b) The absence of, or any falsity in, such pound book entry as aforesaid, shall be *prima facie* proof that the poundmaster or a person acting on his behalf was responsible for such death or injury, as the case may be.

4. Pound book.—(1) Every poundmaster shall keep in respect of his pound a pound book (which, if a pound book has been prescribed, shall be such prescribed pound book) in which he shall enter the following particulars (or such other particulars as may be prescribed):

- (a) the date on which and the cause for which the animals received by him are impounded;
- (b) the number and description of such animals;
- (c) the name and address of the person impounding such animals;
- (d) the name and address (if known) of the owner of such animals;
- (e) the amount claimable as driving fees;
- (f) if the claim is for ordinary trespass or aggravated trespass, the total amount of the trespass fee;
- (g) if special compensation is claimed, the claimant's description of the damage and his estimate of such compensation;
- (h) whether any impounded animal is to be or has been destroyed in terms of this Act;
- (i) the date and particulars of the release or sale of every animal, as the case may be, with the name and address of the person by whom such animal was released or bought;
- (j) where special compensation has been claimed, the amount at which such compensation has been determined under this Act;
- (k) the reasons for his refusal (if any) to accept any animal for impoundment;
- (l) in the case of the death or injury of any impounded animal, the particulars referred to in section 3 (5) (a) (ii).

[Sub-s. (1) amended by s. 3 (a) of Act 14 of 1985.]

(2) The entries in the pound book shall be made at the time when the acts recorded were performed or as soon as the poundmaster comes into possession of the relevant information, as the case may be, but not after any dispute concerning them has arisen.

(3) The initial entry in the pound book in regard to each impounded animal or batch of animals concerned in the same trespass or impounded together shall be allocated a number (the numbers so allocated throughout each year being consecutive and commencing afresh from 1 January in each year) and all subsequent entries in regard to the same animal or batch of animals shall be made under the same number until such time as such animal or animals are released or sold.

(4) (a) The pound book shall be kept at the residence of the poundmaster and shall at all times be available for inspection, free of charge, by any officer or employee of any authority and by any chief, headman, magistrate, police official or any Government officer.

(b) A poundmaster shall—

- (i) at the request of any police official or any person in the employ of the Government or of a pound authority and free of charge and only for official purposes make an extract signed by himself of any information recorded in his pound book; or
- (ii) at the request of any other interested person, make such extract upon the payment by such person of a fee of twenty-five cents which fee he shall, if he is in the whole-time employ of the pound authority, pay to the revenues of the pound authority or otherwise retain for his own use.

(5) The pound authority shall, at least once in every month and in any event not later than fourteen days after every pound sale, cause the pound book to be examined and checked by a competent person for the purpose of ensuring—

- (a) that the poundmaster is complying in all respects with the provisions of this Act; and
- (b) that the poundmaster has properly accounted for all animals and all moneys coming into his possession under the said provisions.

5. Impoundment of animals.—(1) Subject to the provisions of this Act and the Animal Diseases and Parasites Act, 1956—

- (a) any landowner upon whose land any animal is found trespassing may impound such animal or cause it to be impounded in the nearest pound;
- (b) any person may summarily impound in the nearest pound any animal found unattended on any irrigation scheme or upon any road, street, thoroughfare or public place, or except in the case of an animal in the possession of a *bona fide* traveller, upon any outspan or vacant State land;
- (c) any officer or employee of the Government or any chief or headman may summarily impound or cause to be impounded any animal which, in contravention of any provision of the Agricultural Development Act, 1989 or of any soil conservation scheme in force under that Act, is trespassing upon, or is being grazed in, or has unlawfully been brought on to, land in Ciskei or in any soil conservation area as defined in the said Agricultural Development Act, 1989.

[Para. (c) amended by para. (2) (b) of Part 1 of Schedule 5 to Act 14 of 1989.]

(2) Notwithstanding the provisions of subsection (1) (other than paragraphs (b) and (c) of that subsection) no landowner who resides in the area of a tribal authority in which animals are grazed communally shall—

- (a) impound any animal found trespassing upon any garden, orchard, homestead site, church site, school site or business site, unless such garden, orchard or site is adequately fenced; or
- (b) impound any animal belonging to any other person who resides in the same area or in that neighbourhood, unless and until he has—
 - (i) reported the trespass to such other person; and
 - (ii) informed him of the amount claimed for such trespass; and
 - (iii) allowed him a period of twenty-four hours to satisfy such claim.

(3) Any person who finds any stray animals on the commonage in any area where there is no tribal pound shall take such animals to the headman of that area who may direct that they be impounded or that they be detained and herded for a period not exceeding 48 hours whereafter, if they remain unclaimed they shall be impounded: Provided that if the presence of such animals on such commonage is in contravention of any provision of the Agricultural Development Act, 1989 or of any soil conservation scheme in force under that Act, the headman shall cause such animals to be impounded forthwith.

[Sub-s. (3) amended by para. (2) (b) of Part 1 of Schedule 5 to Act 14 of 1989.]

(4) Except as provided in subsection (3) any person who detains any animal for impoundment shall impound it not later than *forty-eight* hours after such detention unless he is prevented from doing so by circumstances beyond his control.

(5) Every person taking or sending animals to the pound shall furnish the poundmaster with the information required by him for the purposes of the pound book and any person who fails or refuses to furnish such information shall not be entitled to any trespass fees or special compensation payable under this Act.

6. Owner of animal may tender trespass fee, etc.—(1) The owner of any animal liable to impoundment under subsection (1) (a) of section 5 may tender to the person complaining of such trespass—

- (a) before the animal has been driven to the pound, the amount claimed by such person for the trespass; or

- (b) if the animal is being driven to the pound, a sum of money sufficient to cover the amount claimed for the trespass as well as the driving fee which would be payable under this Act in respect of the distance for which the animal had been driven before the tender was made.

(2) A tender under subsection (1) shall be made to the complainant himself or to his caretaker or, in the circumstances mentioned in paragraph (b) of that subsection, to his servant or agent charged with the duty of driving that animal to the pound.

(3) If any tender made under subsection (1) is refused and the complainant thereafter institutes legal proceedings for the amount of his claim, he shall be liable for all costs of such proceedings and shall further be ordered by the court to pay for all damage sustained by the owner of the animals by reason of their detention after the time of the tender, unless the court finds—

- (a) that the tender was substantially insufficient; or
- (b) that the tender was refused by the complainant or the person in control of the animals in the *bona fide* belief that the person making the tender was not the owner, or the duly authorized agent of the owner, of such animals.

7. Amounts for which owner of impounded animals is liable.—(1) Subject to the provisions of section 13, the owner of an animal lawfully impounded in terms of this Act shall be liable to pay—

- (a) a driving fee at the rate laid down in Table A of Schedule 1 in respect of one person employed in driving such animal to the pound or, if such animal is an ostrich, in respect of each person necessarily employed in driving such ostrich: Provided that nothing herein contained shall be construed as prohibiting any person from recovering from such owner by action in a competent court a similar driving fee in respect of every person necessarily employed in driving animals other than ostriches to the pound;
- (b) the trespass fee prescribed in Table B of Schedule 1 in respect of every animal found trespassing upon cultivated land: Provided that, in the case of an aggravated trespass, such trespass fee shall be twice the fee prescribed in the said Table B;
- (c) the trespass fee prescribed in Table C of Schedule 1 in respect of every animal found trespassing upon land which is not cultivated land: Provided that, in the case of an aggravated trespass, such trespass fee shall be twice the fee prescribed in the said Table C;
- (d) special compensation in lieu of the trespass fee prescribed in paragraph (b) or (c), determined (in the absence of agreement between the parties concerned) in accordance with the provisions of section 9;
- (e) the pound fee prescribed in Table D of Schedule 1 in respect of every animal impounded: Provided that, for the purposes of this paragraph, no animal shall be deemed to be impounded until it has in fact been delivered to the poundmaster;
- (f) the sustenance fee prescribed in Table E of Schedule 1 (which shall be in addition to the pound fee referred to in paragraph (e)) in respect of every animal herded, grazed or fed by the poundmaster;
- (g) the sustenance fee prescribed in Table F of Schedule 1 (which shall be in addition to the pound fee but in lieu of the fee mentioned in paragraph (f)), in respect of every animal which is required to be kept, fed or herded separately;
- (h) any dipping fee or veterinary fee (including any castration fee) actually paid by the poundmaster or the pound authority in respect of the animal concerned;
- (i) if such animal is required to be branded, such branding fee as may be prescribed;
- (j) the costs (if any) arising from the sale of such animal in terms of this Act.

(2) The poundmaster shall detain every impounded animal in security of the amounts payable under subsection (1) until it is released or sold under the provisions of this Act: Provided that, if the value of any impounded animals belonging to one owner is in excess of the total amount due in respect thereof under sub-section (1), the poundmaster shall on the application in writing of such owner detain in his pound only so many of such animals as may in his opinion be reasonably sufficient to secure the total amount payable or which become payable under this Act in respect of all such animals and release the remainder of the animals to such owner. Provided further that, if the proceeds of the sale of the animals so kept in impoundment is less than such total amount, the poundmaster shall himself make good the deficit but without prejudice to his right to recover such deficit from such owner.

(3) Nothing in this Act contained shall be construed as preventing or prohibiting any person who complains of trespass from seeking redress according to law in any competent court: Provided that—

- (a) no person, who has claimed the trespass fee referred to in paragraph (b) or (c) of subsection (1) of this section, shall be competent afterwards to claim the special compensation referred to in paragraph (d) of that subsection; and
- (b) no person, who has claimed such trespass fee or such special compensation, shall be competent afterwards to seek redress by action in any court of law, except in relation to any special

compensation which remains unpaid after the sale under this Act of the offending animal or animals.

8. To whom amounts recoverable under this Act are payable.—(1) The driving fee payable under section 7 (1) (a) shall be paid—

- (a) to the person entitled thereto under the provisions of section 3 (1) (d), provided that for the purpose of those provisions a headman or any person acting on his behalf shall be deemed not to be an employee of the Government or a pound authority; and
- (b) where the animals are driven to the pound by a person in the employ of the Government or a pound authority, to the revenues of his employer.

(2) The trespass fee or special compensation referred to in section 7 (1) (b), (c) or (d) shall be payable to the landowner of the land trespassed upon: Provided that, for the purposes of this subsection a tribal authority shall be deemed to be the landowner of the commonage and any communal grazing camp within its area.

(3) Unless otherwise provided in any agreement referred to in section 2 (1), the fees and other charges recoverable under paragraph (e), (f), (g), (h), (i) and (j) of subsection (1) of section 7 shall be paid to the revenues of the pound authority.

9. Special compensation for trespass.—(1) (a) For the purposes of the determination of the special compensation contemplated in section 7 (1) (d)—

- (i) the chairman of the tribal authority (assisted by not less than three other members of the tribal authority) shall, within the area of the pound of that tribal authority, be the arbitrator;
- (ii) the department shall, in respect of every area for which there is no tribal authority pound, appoint from amongst the officers of the Government in that area who are adequately qualified one or more persons to act as arbitrators.

[Para. (a) substituted by s. 4 (a) of Act 14 of 1985.]

(b) Every pound authority shall make known to every poundmaster appointed by it the names and addresses of the arbitrators for the area of his pound.

(2) If any landowner considers the trespass fee claimable under this Act to be inadequate or inappropriate—

- (a) by reason of the damage done to his property, or
- (b) on the grounds that a trespassing stallion, bull or ram has been found in the company, as the case may be, of a mare, cow heifer or ewe which belongs to him or is in his lawful possession, he may demand special compensation for his damage or potential damage and may further demand that the amount of such special compensation be determined by an arbitrator.

(3) In every case in which the amount of special compensation is to be determined by such arbitration, the following provisions shall apply:

- (a) The complainant shall give notice of the trespass to the nearest available arbitrator within thirty-six hours after the trespass has taken place and the arbitrator shall appoint a convenient time for his inspection of the property trespassed upon and his enquiry into the matter.
- (b) The complainant shall notify the owner of the offending animal or animals (if such owner is known) of the time so appointed by the arbitrator.
- (c) At the appointed time the arbitrator shall hold his inspection and enquiry (at which the complainant and the owner, if present, of the offending animals shall be afforded an opportunity of being heard) and proceed to determine the damage or potential damage, as the case may be, and shall thereafter make his award in writing which he shall sign and shall hand to the complainant.
- (d) In the circumstances contemplated in sub-section (2) (b) the arbitrator may include, in his award, punitive damages—
 - (i) in the case of trespassing stallion or bull, not exceeding twenty rand; and
 - (ii) in the case of a trespassing ram, not exceeding ten rand.
- (e) The complainant shall without delay deliver or send the arbitrator's award to the poundmaster of the pound in which the offending animal or animals is or are impounded.
- (f) The award of an arbitrator under this section shall be final and binding upon all the parties concerned.

(4) (a) Any complainant who demands arbitration under this section shall, before such proceedings are commenced, pay to the arbitrator—

- (i) in the case of an arbitrator referred to in subsection (1) (a) (i), the amount of four rand which such

arbitrator shall retain for his own use and that of his assistants; or
[Sub-para. (i) substituted by s. 4 (b) of Act 14 of 1985.]

- (ii) if he is an officer of the Government, the amount of ten cents for every kilometre to be travelled by the arbitrator to and from the place of inspection and enquiry, which amount the arbitrator shall pay to the revenue of the department.

(b) The amount so paid by the complainant shall be recoverable by him and shall become a charge upon the impounded animal or animals: Provided that:

- (i) if, prior to the commencement of the arbitration proceedings, the owner of the offending animal or animals tendered and actually proffered to the complainant any amount in satisfaction of his claim and such tender was refused by the complainant, and
- (ii) if the amount of the arbitrator's award is equal to or less than the amount so tendered and proffered by such owner, the complainant shall not be entitled to recover the amount paid to the arbitrator but he shall be liable to refund to the owner of the offending animal or animals the reasonable expenses incurred by such owner or on his behalf in any attendance at the arbitration proceedings.

10. Destruction or death of impounded animal.—(1) If any poundmaster is of the opinion that an impounded animal ought to be destroyed because of injury or disease or because it is dangerous to human life or to any other impounded animal he shall forthwith request a stock inspector or veterinarian in the service of the Government to examine such animal and he shall, at the same time summon the owner of such animal, if such owner is known, to attend the examination.

(2) If the owner of the animal objects to its destruction he may release the animal from impoundment, provided:

- (a) the stock inspector or veterinarian has no objection to such release, and
- (b) such owner then also releases all other animals belonging to him which were impounded at the same time, but subject otherwise to the provisions of section 7 (2).

(3) If the owner of the animal fails to attend the aforesaid examination or is unknown or if the animal is not released under sub-section (2), the stock inspector or veterinarian may in writing direct that the animal be destroyed and the poundmaster shall thereupon cause it to be destroyed.

(4) Unless otherwise provided in an agreement contemplated in section 2 (1) the expenses arising from the destruction of the animal and the disposal of its carcase shall be borne by the pound authority, but without prejudice to its right of recovering such expenses from the owner of the animal either by deducting such expenses from the proceeds of the sale of any other impounded animal belonging to such owner or by action in any competent court.

(5) If any animal dies in the pound and the owner cannot be traced the expenses of burying the carcase shall be borne by the pound authority.

11. Sale of impounded animal.—(1) Whenever any impounded animal has not been released within *six days* after its impoundment, the poundmaster shall forward to the pound authority an advertisement in which there shall:

- (a) be set forth the species, marks and distinguishing peculiarities (if any) of such animal and, in respect of any horse or bovine animal also the colour; and
- (b) be made known that such animal shall be sold by public auction at the time and place stated in the advertisement.

(2) The poundmaster shall display a copy of the advertisement in a conspicuous place at or near his pound, there to remain until the day of the sale.

(3) A copy of such advertisement shall be sent for like display to every other poundmaster in that district—

- (a) by the pound authority, if the animals to be sold are impounded in a tribal authority pound; or otherwise
- (b) by the poundmaster who prepared such advertisement.

(4) The pound authority shall cause every advertisement of the sale of impounded animals to be published in a newspaper circulating in the district in question in the language in which such newspaper is published, and the cost of such advertisement shall be recoverable from the owner of the impounded animal and shall be deemed to be part of the charges to be deducted under section 12 from the proceeds of the sale of any animal: Provided that

- (a) if the advertisement refers to more than one animal, the pound authority shall distribute the cost thereof *pro rata* to the animals referred to therein; and

(b) if the owner of an impounded animal is unknown and the proceeds of the sale of such animal do not cover the fees and charges referred to in section 7 (excluding special compensation), the pound authority shall make good the deficiency.

(5) Except with the consent of the owner no impounded animal (not being an animal referred to in section 13) shall be put up for sale unless it has been impounded for at least thirty days.

(6) (a) The sale of impounded animals shall take place at intervals of *approximately one month* and shall be held at such places as the pound authority may appoint: Provided that the dates of such sales shall, as far as practicable, be so arranged as to allow notice thereof of at *least seven days to be given*.

(b) Except where the sale of impounded animals takes place at an organized public auction sale of animals generally, every sale of impounded stock shall commence on the appointed date at the hour of ten in the morning (or so soon thereafter as the auctioneer may deem desirable) and at every such sale (not being an organized public auction sale of animals generally) the poundmaster or some other person authorized by the pound authority shall act as auctioneer.

(c) No poundmaster shall at any sale conducted by himself purchase any animal on such sale, whether directly or through some other person or be interested directly or indirectly in the purchase by any other person of any such animal.

(d) All impounded animals, other than sheep or goats, shall be sold singly.

(e) Sheep or goats on any such sale may be sold in lots of not more than ten: Provided that sheep and goats bearing the same mark or brand shall be sold together.

(f) All sales of impounded animals shall be for cash.

(g) The pound authority may fix a reserve price on any impounded animal offered for sale and the auctioneer may withdraw any animal from the sale if the highest bid is not in his opinion satisfactory, irrespective of whether or not a reserve price has been fixed by the pound authority: Provided that nothing herein contained shall be construed as prohibiting the pound authority from authorizing the sale at a reasonable price (not being less than such highest bid) of any animal withdrawn from a pound sale.

(h) Notwithstanding the provisions of any other law a poundmaster or any other person acting as the auctioneer at a pound sale shall not be required to be licensed as such.

(7) (a) The poundmaster shall attend every sale at which animals from his pound are to be sold and shall take with him his pound book which he shall make available for inspection free of charge by any interested person.

(b) For attendance at such sale a poundmaster, who is not in the whole-time employ of the pound authority, shall be entitled to an allowance of two rand which shall be paid proportionately out of the proceeds of the animals sold at such sale, and if such proceeds are insufficient then the pound authority shall pay the poundmaster such amount as, together with the sum received by him from the proceeds, amounts to two rand.

(8) Every poundmaster shall, after the sale of every bovine animal, horse or ostrich and before its deliver to the purchaser, brand or mark it with such distinguished brand or mark as the pound authority may have determined, and for such branding or marking a poundmaster who is not in the whole-time employ of the pound authority shall be entitled to payment out of the proceeds of the sale of the impounded animal of such fee as may be prescribed.

12. Disposal of proceeds of sale of impounded animals.—(1) The proceeds of the sale of impounded animals, less the amount of the fees and charges properly payable in respect of such animals and less the amount of any special compensation due or determined under this Act, shall forthwith after receipt thereof by the poundmaster be handed by him to the pound authority for payment to the previous owners of such animals according to their respective rights: Provided that, if such proceeds are insufficient to satisfy all such fees, charges and special compensation, the proceeds shall first be applied to the payment or refund, as the case may be, of the driving fee: Provided further that, if the driving fee is greater than such proceeds, the pound authority shall, in the case of a poundmaster who is not in its whole-time employ, make good the shortfall but without prejudice to its rights to recover such shortfall from the previous owners of the impounded animals.

(2) If the amount of such proceeds, which may lawfully be claimed by the previous owner of any impounded animal, remains unclaimed for a period of twelve months after the date of the pound sale such amount shall become the property of the pound authority.

13. Impoundment of animals seized under Chapter 2 of Act 51 of 1977.—(1) Any animal seized under any provision of Chapter 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977) and placed for safe custody in any pound, shall be deemed to have been impounded at the expense of the State up to and including the day on which the criminal proceedings in relation to which such animal was seized are concluded unless a judicial officer has ordered its earlier release.

(2) Where, at the conclusion of any proceedings as aforesaid, any animal is declared to be forfeited to the State, it shall, unless the Minister has directed otherwise, be impounded in the nearest Government pound or, if none is available, in the nearest pound and thereafter be put up for sale as provided in this Act: Provided that no

such animal shall be sold, whether at a pound sale or otherwise, before the expiration of thirty days after the day on which it was declared to be forfeited to the State.

14. Offences.—(1) Any person—

- (a) who illegally impounds or attempts to impound any animal, or
- (b) who, with intent to obtain additional driving fees, sends to a pound in separate lots any number of animals found trespassing at the same time, or
- (c) who furiously drives, worries or wantonly ill-treats any animal found trespassing, or
- (d) who, without lawful excuse and except in the circumstances contemplated in section 5 (3), detains or keeps in his possession for longer than forty-eight hours any animal seized for impoundment, or
- (e) who rescues or attempts to rescue, or incites or assists any other person to rescue, any animal lawfully impounded or lawfully seized for the purpose of being impounded or in any other manner prevents the lawful impoundment of such animal, or
- (f) who works, rides or uses any animal which has been seized for impoundment or which has been impounded,

shall be guilty of an offence and liable on conviction to a fine not exceeding three hundred rand or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) Any poundmaster—

- (a) who knowingly makes a false entry in his pound book, or
- (b) who fraudulently obliterates or erases any entry already made in his pound book, or
- (c) who, except in the circumstances contemplated in section 7 (2), releases any impounded animal before there have been paid to him the fees and other charges payable under this Act in respect of such animal, or
- (d) who, at a pound sale conducted by himself purchases any impounded animal either directly or through someone else,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

15. Regulations.—The Minister may make regulations providing for any matter which, in terms of this Act, may be or is required to be prescribed by regulation, or any other matter whatsoever which, in his opinion, it is necessary or expedient to prescribe in order to give effect to the aims and objects of this Act.

16. Alteration or amendment of tariff.—(1) Subject to the provisions of subsection (2) the Minister may, in respect of any particular Government pound or Government pounds generally and a tribal authority may, in respect of any particular tribal authority pound or tribal authority pounds in its area generally, alter or amend from time to time any of the fees or charges fixed in any Table of Schedule 1: Provided that no such alteration or amendment shall be made by any tribal authority without the prior approval of the Minister who, when granting his approval, may increase or decrease any proposed fee or charge in such manner as he may deem fit.

(2) Every such alteration or amendment of any fee or charge shall be made known by the Minister by notice in the *Gazette*, whereupon the fee or charge, as so altered or amended, shall have the same force and effect as if it were included in Schedule 1 or in any reference in this Act to that Schedule.

17. Application of Act in municipal areas.—(1) Subject to the provisions of subsections (2) and (3) the provisions of this Act shall apply in the area of a municipal council only to the extent to which they are not in conflict with the provisions of any by-law.

(2) (a) Notwithstanding anything in the Municipal Ordinance or in sub-section (1) of this section contained, any by-law made or adopted by a municipal council after the commencement of this Act and which prescribes any fee or charge for or in relation to the trespass by or the impoundment of animals shall be subject to the approval of the Minister who, before granting such approval, may increase or decrease any such fee or charge in such manner as he may deem fit: Provided that no such fee or charge shall be decreased by the Minister to a lesser amount than the corresponding fee or charge fixed in Schedule 1.

[Para. (a) amended by s. 5 (a) of Act 14 of 1985.]

(b) Any by-law as so altered or amended by the Minister shall be deemed to have been made or adopted by the municipal council concerned but subject otherwise to the provisions of section 190 of the Municipal

Ordinance.

(3) Any tariff of fees or charges fixed by any municipal council under any law repealed by section 18 or under any by-law relating to pounds and which is in force immediately prior to the commencement of this Act shall lapse upon the expiration of the period of six months following upon the date of commencement of this Act unless such tariff has earlier been approved by the Minister: Provided that the Minister may alter or amend any such tariff, but subject *mutatis mutandis* to the provisions of sub-section (2).

(4) Any municipal council in whose area the provisions of Schedule 1 are in force may alter or amend any of those provisions in the manner prescribed in section 16 in relation to a tribal authority.

(5) Where any animal which has trespassed on land outside a municipal area is impounded in the municipal pound, the fees and charges fixed for such pound shall be payable: Provided that if the municipal council suffers any loss as a result of such impoundment, it may recover such loss from the pound authority of the area in which the land trespassed upon is situated.

[Sub-s. (5) substituted by s. 5 (b) of Act 14 of 1985.]

18. Repeal of laws.—Subject to the provisions of subsection (3) of section 17, the laws mentioned in Schedule 2 are hereby repealed.

19. Short title.—This Act shall be called the Pounds Act, 1984.

SCHEDULE 1

TABLE A

DRIVING FEE

For all animals delivered to the pound, whether one or more, per kilometre or part of a kilometre, 15 cents.

TABLE B

TRESPASS ON CULTIVATED LAND

(but subject to the provisions of section 5 (2) (a))

Description of animals	If land is adequately fenced	If land is not adequately fenced
Cattle, horses, pigs and ostriches, per head	R2,00	R1,00
Sheep or goats, per head	50 cents	25 cents

TABLE C

TRESPASS ON UNCULTIVATED LAND

(but subject to the provisions of section 5 (2) (a))

Description of animals	If land is adequately fenced	If land is not adequately fenced
Cattle, horses, pigs and ostriches, per head	R2,00	R1,00
Sheep or goats, per head	50 cents	25 cents

TABLE D

POUND FEE

Cattle, horses, pigs, ostriches and donkeys, per head per day	75 cents
Sheep and goats, per head per day	50 cents

TABLE E

SUSTENANCE FEE FOR ANIMAL NOT SEPARATELY HERDED

Cattle, horses, donkeys, and pigs, per head per day	60 cents
Ostriches, per head per day	50 cents
Sheep and goats, per head per day	25 cents

TABLE F

SUSTENANCE FEE FOR ANIMAL SEPARATELY HERDED

For every bull, per day	R1,00
For every stallion, per day	R1,00
For every boar, per day	R1,00
For every ostrich, per day	R1,00
For every sheep ram, goat ram or other separated animal per day	60 cents

TABLE G

TRESPASS OF ANIMALS ON PUBLIC ROADS

Description of animals	Grid	Fenced	Not fenced
Cattle, horses, pigs ostriches and donkeys each	R10,00	R5,00	R2,00
Sheep and goats	R5,00	R2,00	R1,00

SCHEDULE 2

LAWS REPEALED

<i>No. and Year of Law</i>	<i>Short title</i>
Ordinance 18 of 1938	Pounds Ordinance, 1938
Ordinance 30 of 1940	Pounds (Amendment) Ordinance, 1940
Ordinance 14 of 1941	Pounds (Amendment) Ordinance, 1941
Ordinance 8 of 1950	Pounds Amendment Ordinance, 1950
Ordinance 23 of 1962	Local Authorities Pounds Ordinance, 1962
Ordinance 21 of 1970	Pounds Amendment Ordinance, 1970
Ordinance 7 of 1971	Pounds Amendment Ordinance, 1971