

THE CATTLE-TRESPASS ACT.

[INDIA ACT I, 1871.] (13th January, 1871.)

CHAPTER I.

PRELIMINARY.

Exclusion of
areas from
operation of
Act.

1. The President of the Union may, by notification, exclude any area from the operation of this Act.

2. * * * *

Interpreta-
tion clause.

3. In this Act,—

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

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

CHAPTER II.

POUNDS AND POUND-KEEPERS.

Establish-
ment of
pounds.

4. Pounds shall be established at such places as the District Magistrate, subject to the general control of the President of the Union, from time to time directs.

The village by which every pound is to be used shall be determined by the District Magistrate.

Control of
pounds.
Rates of
charge for
feeding im-
pounded
cattle.

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

6. The District Magistrate shall also appoint for each pound a pound-keeper. Appointment of pound-keepers.

Every pound-keeper appointed by the District Magistrate may be suspended or removed by such Magistrate. Suspension or removal of pound-keepers.

Any pound-keeper may hold simultaneously any other office under Government. Pound-keepers may hold other offices.

Every pound-keeper shall be deemed a public servant within the meaning of the Penal Code. Pound-keepers to be public servants.

Duties of Pound-keepers.

7. Every pound-keeper shall keep such registers and furnish such returns as the President of the Union from time to time directs. To keep registers and furnish returns.

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

(a) the number and description of the animals.

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

CHAPTER III.

IMPOUNDING CATTLE.

10. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land, or the vendee or mortgagee of such crop or produce or 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 situate. Cattle damaging land.

All officers of police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescues from persons making such seizures. Police to aid seizures.

Cattle
damaging
public roads,
canals and
embank-
ments.

¹ 11. Persons in charge of public roads², pleasure-grounds, plantations, 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 or embankments, or found straying thereon, and shall send them or cause them to be sent within twenty-four hours to the nearest pound.

Fines for
cattle im-
pounded.

12. 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 President of the Union in this behalf by notification in the Gazette. Different scales may be prescribed for different local areas.

List of fines
and charges
for feeding.

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

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.

Procedure
when owner
claims the
cattle and
pays fines
and charges.

13. If the owner of the impounded cattle or his agent appear and claim 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.

Procedure if
cattle be not
claimed
within a
week.

14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the District Magistrate 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 and time and subject to

¹ As to the application of section 11 to forests, see the Forest Act, section 49, in Vol. III of this Code.

² "Public road" in section 11 includes a railway, and any railway servant may exercise the powers conferred on police-officers by this section; see the Railways Act, section 125 (4), in Vol. VII of this Code.

such conditions as the District Magistrate by general or special order from time to time directs :

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

15. If the owner or his agent appear and refuse 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.

Delivery to owner disputing legality of seizure, but making deposit.

16. If the owner or his agent appear and refuse or omit 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.

Procedure when owner refuses or omits to pay the 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.

Deduction of fines and expenses.

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

Delivery of unsold cattle and balance of proceeds.

- (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 the 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.

Receipt.

17. The officer by whom the sale was made shall send to the District Magistrate the fines so deducted.

Disposal of fines, expenses and surplus proceeds of sales.

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 District Magistrate, 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, dispose of them as hereinafter provided.

18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be paid—

Application of fines and unclaimed proceeds of sale.

- (a) the salaries allowed to pound-keepers under the orders of the President of the Union.

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act ;

and the surplus¹ (if any) shall be applied under orders of the President of the Union to the construction and repair of roads and bridges and to other purposes of public utility.

Officers and pound-keepers not to purchase cattle at sales under Act.

19. No officer of police or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle at a sale under this Act.

Pound-keepers when not to release impounded cattle.

No pound-keeper shall release or deliver 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 V.

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to make complaints.

20. 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 complaint² to the District Magistrate or any Magistrate authorized to receive and try charges without reference by the District Magistrate.

Procedure on complaint.

21. 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.

Compensation for illegal seizure or detention.

22. 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, 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 who made the seizure or detained the cattle.

Release of cattle.

¹ See also section 31.

² Offences under section 20 are triable summarily, see section 260 (1) (j) of the Code of Criminal Procedure in Vol. VIII of this Code.

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

Recovery of compensation.

CHAPTER VI.

PENALTIES.

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues 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.

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

¹ **25.** 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 of 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.

Recovery of penalty for mischief committed by causing cattle to trespass.

26. 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,² by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

Penalty for damage caused to land or crops or public roads by pigs.

The President of the Union, by notification in the Gazette may from time to time, with respect to any local area specified in the notification, direct that the 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. 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.

Penalty on pound-keeper failing to perform duties.

Such fines may be recovered by deductions from the pound-keeper's salary.

¹ As to the application of section 25 in the case of cattle trespassing on a railway, see the Railways Act, section 125, in Vol. VII of this Code.

² "Public road" in section 26 includes a railway, see the Railways Act, section 125 (4).

Application
of fines
recovered
under
section 25,
26, or 27.

28. 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.

Saving of
right to sue
for compen-
sation.

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

Set-off.

30. 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 VIII.

SUPPLEMENTAL.

Power for
President to
transfer cer-
tain func-
tions to local
authority
and direct
credit of
surplus
receipts to
local fund.

31. The President of the Union may, from time to time, by notification in the Gazette,—

- (a) transfer to any local authority within any part of the Union of Burma in which this Act is in operation all or any of the functions of the President of the Union or the District Magistrate under this Act, within the local area subject to the jurisdiction of the local authority, or
- (b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district.