

Zimbabwe

Stock Trespass Act

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Zimbabwe

Stock Trespass Act

Chapter 19:14

Commenced on 14 June 1991

[Up to date as at 31 December 2016]

[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe]

AN ACT to provide for the protection of land and property against trespass by stock; to provide for the impoundment of trespassing stock and the disposal of stock that has been impounded; and to provide for matters connected with or incidental to the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Stock Trespass Act [Chapter 19:14].

2. Interpretation

(1) In this Act—

“**area**”, in relation to—

- (a) a municipal council, town council, rural district council or local board, means the area for which such council or board has been established, together with any other area under the administration, control or management of such council or board;
- (b) a person in whom the administration, control or management of a local government area has been vested in terms of subsection (3) of section 7 of the Urban Councils Act [Chapter 29:15], means the local government area concerned;
- (c) a person or authority declared to be a local authority in terms of paragraph (a) of subsection (2), means the area specified in terms of that subsection as the area of jurisdiction of that person or authority;

“**assessor**” means a poundmaster or other person acting as an assessor in terms of section twenty-eight;

“**cattle**” means bulls, cows, oxen, heifers, steers or calves;

“**entire**”, in relation to male stock, means not castrated;

“**large stock**” means cattle, horses, donkeys, mules and any animals or birds declared in terms of paragraph (b) of subsection (2) to be large stock;

“**local authority**” means—

- (a) a municipal council, town council, rural district council or local board; or
- (b) a council vested with the administration, control or management of a local government area in terms of subsection (3) of section 7 of the Urban Councils Act [Chapter 29:15]; or
- (c) a person or authority declared to be a local authority in terms of paragraph (a) of subsection (2);

“**Minister**” means the Minister of Agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“**nearest pound**”, in relation to any land, means the pound that is nearest to that land by a practicable

road or route:

Provided that, in relation to any special pound area or any area that is a prescribed area in terms of the Animal Health Act [Chapter 19:01] from which the removal of any stock is prohibited, restricted or controlled, a pound situated—

- (a) within such an area shall not be the nearest pound in relation to any land situated outside that area;
- (b) outside such an area shall not be the nearest pound in relation to any land situated within that area;

“**owner**”, in relation to any stock, includes any person employed by the owner of the stock as manager, caretaker or agent in respect of the land on which the stock is normally kept;

“**person in charge**”, in relation to any land, means the owner, lessee or occupier of the land or any manager, caretaker or agent employed by such owner, lessee or occupier;

“**pound**” means a pound established in terms of this Act;

“**pound authority**”, in relation to any pound, means the person or authority in whom the control and administration of the pound is vested in terms of section four;

“**pound book**” means a pound book kept in terms of section nine;

“**poundmaster**” means a person appointed as poundmaster in terms of section five;

“**small stock**” means goats, sheep and pigs and any animals or birds declared in terms paragraph (b) of subsection (2) to be small stock;

“**special pound**” means a pound established in a special pound area;

“**special pound area**” means an area declared to be a special pound area in terms of section fifty-one;

“**special pound authority**” means the person or authority in whom the control and administration of a special pound is vested in terms of section four;

“**stock**” means cattle, horses, donkeys, mules, goats, sheep, pigs and any other animals or birds declared to be stock in terms of paragraph (b) of subsection (2);

“**sufficient fence**” means—

- (a) a wire fence in good repair with not less than four strands of barbed wire or five strands of plain wire properly strained on substantial supports;
- (b) a wall, fence, gate or barrier at least one comma five metres high;

through which no stock can pass without breaking the fence, wall, gate or barrier, as the case may be.

“**trespass money**” means money payable in terms of section twenty-seven;

“**urban area**” means—

- (a) a municipal or town area or a local government area; or
- (b) any land that is urban land for the purposes of the Rural District Councils Act [Chapter 29:13].

(2) The Minister may, by statutory instrument—

- (a) declare any person or authority to be a local authority for the purposes of all or any of the provisions of this Act, and in the statutory instrument shall specify the area for which the person or authority shall be the local authority;
- (b) declare any domestic or domesticated animals or birds to be stock for the purposes of all or any of the provisions of this Act, either in relation to the whole of Zimbabwe or to any part thereof, and in the statutory instrument shall specify whether the animals or birds are to be large stock or small stock.

Part II – Establishment, control and administration of pounds and appointment of pound masters and other staff

3. Establishment and abolition of pounds

- (1) A local authority may, by notice in the *Gazette*, establish one or more pounds within its area and may in like manner abolish any such pound.
- (2) If required to do so by the Minister, acting after consultation with the Minister responsible for local government, a local authority shall establish a pound in any part of its area specified by the Minister.
- (3) The Minister may, by notice in the *Gazette*, establish one or more pounds within any area that is a prescribed area in terms of the Animal Health Act [Chapter 19:01] from which the removal of stock is prohibited, restricted or controlled, and may in like manner abolish any such pound.

4. Vesting of control and administration of pounds

- (1) Subject to subsections (2) and (4), a local authority which has established a pound in terms of section three shall have, the control and administration of that pound.
- (2) Subject to subsection (4), if the place where a pound is situated ceases to fall within the area of the local authority that established it, whether because of the dissolution of the local authority or the alteration of its area or otherwise, the control and administration of the pound shall vest in the local authority within whose area the pound is situated.
- (3) Subject to subsection (4), the Minister shall have the control and administration of any pound established by him in terms of section three.
- (4) The Minister may, by notice in the *Gazette*, vest the control and administration of any pound in such person or authority as may be specified in the notice.

5. Appointment of poundmasters and other staff

- (1) A local authority shall appoint, on such terms and conditions as it may fix after consultation with the Minister responsible for local government, a poundmaster for every pound for which it is the pound authority.
- (2) Subject to the law relating to the Public Service, the Minister shall appoint a poundmaster for every pound for which he is the pound authority.
- (3) A poundmaster who is not a full-time employee of the pound authority may, with the approval of the pound authority and subject to any other law, appoint members of staff to assist him in the management of his pound.
- (4) Where a poundmaster is a full-time employee of the pound authority, the pound authority may, subject to any other law, appoint persons to assist the poundmaster in the management of the pound.
- (5) For the purposes of this section, a member of the Public Service who is the poundmaster of a pound for which the Minister is the pound authority shall be deemed to be a full-time employee of the Minister.

Part III – Management of pounds

6. Construction and maintenance of pounds

- (1) Every pound shall be constructed in such manner and to such specifications as may be prescribed by the Minister.
- (2) Every pound authority shall ensure that every pound controlled and administered by it is kept in good repair.

7. Poundmaster responsible for managing pound

Subject to this Act and to any directions given to him by the pound authority, a poundmaster shall be responsible for ensuring the proper management and control of his pound and of all stock impounded therein.

8. Notice board at pound

A poundmaster shall erect and maintain at his pound a notice board upon which he shall post—

- (a) the rates of fees, charges and damages payable in terms of this Act in relation to his pound and any stock impounded therein; and
- (b) notices of sales of stock impounded in his pound; and
- (c) any other matters that may be prescribed by the Minister or by the pound authority for his pound.

9. Pound book

- (1) Every poundmaster shall keep a pound book in such form as may be prescribed by the Minister or directed by the pound authority for his pound.
- (2) A poundmaster shall record in his pound book without delay, in relation to all stock received into his pound—
 - (a) the date on which the stock was received into his pound and the reason for its being impounded; and
 - (b) the number and description of the stock, including any brands or marks thereon; and
 - (c) the name and address of the person who sent the stock to his pound; and
 - (d) the name and address of the owner of the stock, if known; and
 - (e) the date and particulars of the release or sale of the stock including, in the case of a sale, the price realized by the stock; and
 - (f) particulars as to any fees or charges received in respect of the stock; and
 - (g) any other matters which he is required in terms of this Act or by direction of his pound authority to enter in his pound book.
- (3) Any poundmaster who—
 - (a) makes an entry in his pound book which he knows to be false or does not believe on reasonable grounds to be true; or
 - (b) fraudulently destroys or erases an entry in his pound book;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

10. Inspection of pound book

- (1) A poundmaster shall produce his pound book at his pound or office for inspection at all reasonable times, free of charge, on demand by—
 - (a) any person authorized to inspect it by the Minister or by the pound authority for the pound concerned; or
 - (b) an inspector of pounds appointed in terms of section fourteen; or

- (c) any police officer; or
 - (d) any person who is an authorized person in terms of the Animal Health Act [Chapter 19:01].
- (2) A poundmaster shall produce his pound book at his pound or office, at all reasonable times and on payment of the fee, if any, prescribed by the pound authority for his pound, for inspection by any person other than a person referred to in subsection (1).
- (3) A poundmaster shall take his pound book to every sale of stock impounded in his pound, and while the sale takes place any person may inspect it there, free of charge.
- (4) A poundmaster who fails within a reasonable time after demand to produce his pound book for inspection in terms of this section shall be guilty of an offence and liable to a fine not exceeding level three or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

11. Copies of pound book entries to be sent to pound authority

- (1) At such regular intervals as the pound authority may direct, a poundmaster shall send to the pound authority for his pound copies or extracts from all entries made in his pound book since the last such copies or extracts were sent.
- (2) A pound authority shall preserve for not less than six years all copies and extracts sent to it in terms of subsection (1), and all such copies and extracts shall be open for inspection by any person at all reasonable times on payment of the fee, if any, prescribed by the pound authority.
- (3) A poundmaster who sends to the pound authority for his pound a copy of or extract from his pound book which he knows to be false or does not believe on reasonable grounds to be true shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

12. Receipt book

- (1) A poundmaster shall keep a receipt book from which he shall issue the receipts required by or in terms of this Act.
- (2) A poundmaster shall keep in his receipt book a copy of all receipts issued therefrom.

13. Copy of Act, regulations and by-laws to be kept at pound

A poundmaster shall keep at his pound a copy of this Act and every regulation and by-law made under this Act which is applicable to his pound, and any person may inspect such copies free of charge at all reasonable times.

14. Inspectors of pounds

- (1) Subject to the law relating to the Public Service, the Minister may appoint inspectors of pounds.
- (2) Inspectors of pounds shall exercise such functions in relation to pounds as are specified in this Act or as may be prescribed by the Minister.

Part IV – Impounding of stock

15. Certain provisions of of Part IV not to apply in special pound areas

The provisions of this Part, other than subsection (2) of section sixteen, sections eighteen, twenty-three, twenty-four and twenty-five and subsection (2) of section twenty-seven, shall not apply to special pounds or within special pound areas, except to the extent that the Minister may declare those provisions to apply in terms of

section sixty-two.

16. Right to impound trespassing or straying stock

- (1) Where a person in charge of—
- (a) land inside an urban area which is enclosed with a sufficient fence; or
 - (b) any land outside an urban area, whether or not the land is fenced;
- becomes aware that any stock is trespassing on his land, he may, subject to this Act, send the stock to the nearest pound.
- (2) If within the area of any local authority any stock is found straying on any—
- (a) unoccupied land; or
 - (b) State land; or
 - (c) road, street or public open space in any urban area; or
 - (d) road declared by the Minister by notice in the *Gazette* to be a designated road for the purposes of this section;
- any police officer or person authorized thereto by the local authority may, subject to this Act, send the stock to the nearest pound.

17. Duties of person in stock in charge of land regarding trespassing stock

- (1) No person in charge of any land shall knowingly allow any trespassing stock to remain on his land for longer than one week unless he has sent—
- (a) to the owner of the stock, if the owner is known to him: or
 - (b) to the poundmaster of the nearest pound, if the owner of the stock is not known to him;
- a written notice stating that the stock is on his property and giving such details as he can reasonably ascertain regarding the species and distinguishing features of the stock.
- (2) A poundmaster who receives a notice in terms of subsection (1) shall—
- (a) record the particulars of the notice in his pound book; and
 - (b) publish on his notice board the particulars contained in the notice; and
 - (c) send a copy of the notice to the pound authority.
- (3) If within ten days after sending a notice in terms of subsection (1) the stock concerned has not been claimed by its owner, the person in charge of the land shall, subject to this Act, forthwith either send the stock to the nearest pound or advise the poundmaster of that pound of the continued presence of the stock on his land.
- (4) On receipt of advice in terms of subsection (3), the poundmaster shall—
- (a) arrange for the stock concerned to be driven to his pound, if his pound is not more than thirty-two kilometres away from the land on which the stock are present; or
 - (b) report the circumstances of the matter to the pound authority, if his pound is more than thirty-two kilometres away from the land on which the stock are present or if it is otherwise not possible or practicable to drive the stock to his pound.
- (5) On receipt of a report in terms of paragraph (b) of subsection (4), the pound authority may give such directions as he or it thinks necessary for the sale, disposal or containment of the stock concerned and the stock shall be sold, disposed of or contained, as the case may be, in accordance with such directions.

- (6) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

18. Stock trespassing on poundmaster's land

Where the person in charge of any land on which stock has been found trespassing is himself a poundmaster and the nearest pound, apart from his own pound, is within twenty kilometres from the land, he shall send the stock to that nearest pound in terms of section sixteen or seventeen and not to his own pound, and shall enter in his pound book the number and description of the stock so sent.

19. Cleansing of cattle before impounding

- (1) If it is found that any cattle that are to be sent to a pound in terms of section sixteen or seventeen are tick-infested, the person who sends them to the pound shall cause them to be dipped or sprayed in accordance with regulations made in terms of the Animal Health Act [Chapter 19:01].
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level three or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

20. Restrictions on removal of stock to pound

- (1) If a permit is required under any enactment for the removal of stock from any land, no person shall remove the stock from the land to send the stock to a pound in terms of section sixteen or seventeen unless he has obtained such a permit.
- (2) No person shall send any stock to any pound in terms of section sixteen or seventeen if he knows or has reason to suspect that the stock is suffering from or infected with a disease specified under the Animal Health Act [Chapter 19:01].
- (3) No person shall remove stock from any land in terms of section sixteen or seventeen if the removal of such stock from the land is prohibited in terms of the Animal Health Act [Chapter 19:01] or any other enactment.
- (4) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

21. Disposal of diseased stock or stock trespassing in quarantine area

- (1) Where any stock known or suspected to be suffering from or infected with a disease specified under the Animal Act [Chapter 19:01] is found to be trespassing on any land, the person in charge of the land may secure and isolate the stock at some place as near as possible to the place where the stock was found, and may deal with the stock in accordance with regulations made in terms of that Act.
- (2) Where any stock is found trespassing on any land from which its removal is prohibited in terms of the Animal Health Act [Chapter 19:01] or any other enactment, the person in charge of the land shall forthwith report the presence of the stock to the nearest police station and shall retain the stock on his land until arrangements have been made for its lawful removal or disposal.
- (3) A person in charge of land who retains any stock in terms of this section shall be entitled to recover from the owner of the stock the appropriate fees prescribed in terms of Part VI in all respects as if he were a

poundmaster, in addition to any fees or damages to which he may otherwise be entitled in terms of this Act, and may retain the stock in his possession until such fees are paid.

- (4) If any dispute arises as to the correct amount payable in terms of subsection (3), the matter shall be referred to the pound authority for the nearest pound to the land concerned, and the decision of the pound authority shall be final

22. Particulars of trespass and stock to be sent to poundmaster

- (1) A person who sends stock to a pound in terms of section sixteen or seventeen shall at the same time notify the poundmaster of—
- (a) the number and particulars of the stock; and
 - (b) the nature of the land on which the trespass took place and whether or not the land was enclosed with a sufficient fence; and
 - (c) where trespass money is claimed, the amount claimed or the tariff under which such money is claimed; and
 - (d) where trespass money is not claimed, whether or not it is intended to refer the award of damages to assessors in terms of section twenty-eight or to institute legal proceedings for damages under any other law.
- (2) If no notice is given or sent in terms of subsection (1) or if any particulars referred to in paragraph (a), (b) or (c) of that subsection are omitted from such a notice, trespass money shall be paid in terms of section twenty-seven at such lower appropriate tariff as may be prescribed in terms of that section.
- (3) A poundmaster shall record any notice in terms of subsection (1), where it has been given to him orally, and shall retain such record, or the notice itself where it has been given to him in writing, for not less than three years.

23. Trespassing stock not to be retained, worked or ill-treated

- (1) No person who has charge or control of stock that has been found trespassing on any land shall—
- (a) except as provided in this Act, retain possession of or deal in the stock; or
 - (b) work or use the stock; or
 - (c) over-drive or wantonly ill-treat the stock; or
 - (d) tie up or confine the stock in a stable, kraal or enclosure without food and water for a continuous period of more than six hours during the day; or
 - (e) except as provided in this Act, confine the stock in a stable, kraal or enclosure for a continuous period of more than twenty-four hours; or
 - (f) send the stock to a pound except by the shortest practicable route, unless it is in the interests of the stock to send it by a longer route.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

24. Prohibition against rescue of stock

- (1) No person shall rescue any stock which—
- (a) has been lawfully seized for the purpose of being sent to a pound; or

- (b) is being lawfully sent to a pound; or
 - (c) has been lawfully impounded.
- (2) No person shall wilfully damage or destroy any pound or part of a pound or do any act whereby any stock may escape from a pound.
- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

25. Tender of damages by owner of stock before impoundment

- (1) The owner of any stock being sent or liable to be sent to a pound for trespass may tender to the person in charge of the land trespassed upon an amount sufficient to cover—
- (a) any trespass fees payable in respect of the stock; and
 - (b) any damages payable in respect of the trespass; and
 - (c) where the stock is in the course of being sent to the pound, any driving distance or transport fees payable in respect thereof.
- (2) If a person in charge of land refuses any tender in terms of subsection (1), he shall be liable to the owner of the stock concerned for—
- (a) the costs of any legal proceedings which the owner may institute for the recovery of the stock; and
 - (b) any loss or damage which the owner of the stock may sustain as a result of the refusal of the tender;
- unless the court finds that the tender was insufficient or that the person in charge of the land *bona fide* believed that the person making the tender was not the owner of the stock.

26. Driving distance and transport fees

A person who sends stock to a pound in terms of section sixteen or seventeen shall be entitled to be paid by the poundmaster driving distance or transport fees at the appropriate rate prescribed by the pound authority.

27. Trespass money

- (1) Where trespassing stock has been sent to a pound, or otherwise dealt with in terms of section sixteen or seventeen, the person in charge of the land upon which the stock trespassed shall be entitled to be paid by the owner of the stock trespass money at the appropriate rate prescribed by the pound authority concerned.
- (2) Without derogation from section 21 of the Interpretation Act [Chapter 1:01], when prescribing rates of trespass money a pound authority may—
- (a) prescribe different rates—
 - (i) for trespass upon cultivated and uncultivated land, and may vary the rates according to the degree and nature of the cultivation;
 - (ii) according to the number and nature of the trespassing stock;
 - (b) prescribe increased rates for—
 - (i) repeated trespass;
 - (ii) trespass by diseased or unhealthy stock;

- (iii) trespass by an entire male animal upon land on which there is breeding stock of the same species.

28. Assessment of damages and other matters

- (1) If—
 - (a) the person in charge of any land upon which stock has trespassed considers that the amount of trespass money to which he is or will be entitled is inadequate to compensate him for damage caused by the trespassing stock; or
 - (b) any dispute arises as to whether or not trespassing stock were suffering from or infected with any disease at the time of the trespass;

the person in charge of the land on which the trespass took place may request the poundmaster of his nearest pound to refer the matter to assessment in terms of this section.
- (2) A person requesting the assessment of damages in terms of subsection (1) shall inform the poundmaster and the owner of the stock concerned, if his identity is known, of the amount of damages claimed by him.
- (3) On receipt of a request in terms of subsection (1) a poundmaster shall either—
 - (a) within forty-eight hours, assess the matter himself; or
 - (b) immediately appoint two impartial and competent persons to assess the matter within forty-eight hours.
- (4) An assessor shall be entitled to receive from the person who requested the assessment such fees as may be prescribed by the pound authority.
- (5) As soon as possible after making an assessment in terms of this section, an assessor shall give written notice thereof—
 - (a) to the person who requested it in terms of subsection (1); and
 - (b) to the owner of the stock concerned, if his identity is known; and
 - (c) where the assessor is not himself the poundmaster, to the poundmaster.
- (6) Where the amount of damages assessed in terms of this section—
 - (a) exceeds the amount that would have been payable by way of trespass money to the person who requested the assessment; and
 - (b) is at least two-thirds of the amount claimed by the person who requested the assessment;

the assessed damages and the fees paid to the assessor or assessors shall become a charge on the trespassing stock, where that stock is impounded or is kept on the land of the person who requested the assessment.
- (7) If the owner of the stock concerned does not agree with an assessment in terms of this section, he may, within four days after being notified of the assessment, appeal against it to the pound authority for the area where the trespass took place.
- (8) As soon as possible after receiving notice of an appeal in terms of subsection (7), a pound authority shall appoint two impartial and competent persons to make a fresh assessment in the matter.
- (9) A person appointed in terms of subsection (8) shall be entitled to receive from the owner of the stock concerned such fees as may be prescribed by the pound authority.
- (10) As soon as possible after making a further assessment in terms of subsection (8), the persons appointed in terms of that subsection shall give written notice thereof—
 - (a) to the owner of the stock concerned; and

- (b) to the person who requested the original assessment in terms of subsection (1); and
 - (c) to the poundmaster to whom the original request for assessment was made; and
 - (d) to the pound authority.
- (11) If the amount of damages assessed by persons appointed in terms of subsection (8) is less than one-third of the original assessment that was the subject of the appeal, the poundmaster shall deduct their fees from the moneys payable by the owner of the stock concerned to the person in charge of the land on which the stock trespassed.
- (12) Where a person requests an assessment of damages in terms of subsection (1), the trespassing stock shall not be released from any pound in which they are being kept unless the owner of the stock gives sufficient security for the payment of any damages that may be assessed in terms of this section, together with any fees that may be incurred in terms of this section.
- (13) In the event of any dispute as to the amount of security to be given in terms of subsection (12), the amount shall be fixed by a magistrate for the province in which the pound concerned is situated.

Part V – Duties of poundmasters in relation to impounded stock

29. Certain provisions of Part V not to apply to special pounds

Section thirty and subsection (1) of section thirty-two shall not apply to special pounds, except to the extent that the Minister may declare those provisions to apply in terms of section sixty-two.

30. Receipt of stock into pound

- (1) A poundmaster shall receive into his pound all stock tendered at his pound between sunrise and sunset by any person authorized in terms of this Act to send stock to the pound.
- (2) As soon as a poundmaster has received stock into his pound he shall give the person tendering the stock a written receipt from his receipt book specifying—
- (a) the number and description of the stock; and
 - (b) the alleged trespass for which the stock have been sent to the pound.
- (3) A poundmaster who fails to comply with subsection (1) shall be liable to the owner of the stock or any other person for any loss or damage caused by or arising out of such failure.

31. Notification to owner that stock is impounded

- (1) Where a poundmaster knows the identity of the owner of any stock received into his pound, he shall as soon as possible and by the quickest means available notify the owner that the stock has been impounded.
- (2) Where a poundmaster does not know the identity of the owner of any stock received into his pound but the stock has been branded with one or more brands registered in terms of the Brands Act [Chapter 19:03], the poundmaster shall as soon as possible and by the quickest means practicable notify the registered proprietor of the latest brand that the stock has been impounded.

32. Diseased and tick-infested stock

- (1) If a poundmaster has reasonable grounds for believing that any stock received into his pound is suffering from or infected with a disease specified under the Animal Health Act [Chapter 19:01], he shall isolate the stock and as soon as possible report the matter to the nearest Government veterinary officer or animal health inspector, and thereafter shall deal with the stock in accordance with any directions given to him by the Government veterinary officer or animal health inspector.
- (2) A poundmaster shall cause all stock in his pound to be sprayed or dipped in accordance with regulations

made in terms of the Animal Health Act [Chapter 19:01] at such intervals as may be prescribed in such regulations and, where the stock is tick infested at the time it is sent to his pound, as soon as possible after being received into the pound.

- (3) Subject to subsections (1) and (2), a poundmaster shall isolate any sheep or goats in his pound which are infected with scab and shall dip or dress them as often as is reasonably necessary.

33. Vicious stock

If any stock received into a pound is dangerously vicious, the poundmaster shall notify the pound authority and shall deal with or dispose of the stock in such manner as the Minister may prescribe.

34. Stock to be cared for and not worked

- (1) Subject to this Act, a poundmaster shall take proper care of all stock impounded in his pound.
- (2) No poundmaster shall work or use any stock impounded in his pound.
- (3) Any poundmaster who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

35. Record of deaths and injuries

- (1) A poundmaster shall record in his pound book every instance of death of or injury to stock impounded in his pound, noting the apparent cause of such death or injury.
- (2) Without derogation from subsection (3) of section nine, a failure on the part of a poundmaster to make a record required by subsection (1) or the falsification by a poundmaster of any such record shall be *prima facie* proof that the death or injury concerned was due to the poundmaster's default.

Part VI – Poundmasters' fees

36. Part VI not to apply to special pounds

The provisions of this Part shall not apply in relation to special pounds, except to the extent that the Minister may declare those provisions to apply in terms of section sixty-two.

37. Prescription of fees

Subject to this Act, a poundmaster shall be entitled to be paid such fees as may be prescribed by the pound authority for his pound in respect of—

- (a) driving or transporting stock to his pound in terms of section seventeen; and
- (b) impounding, herding, cleansing and tending stock in his pound; and
- (c) attending and conducting sales of stock in terms of Part VII; and
- (d) branding, stock after it has been sold in terms of Part VII; and
- (e) any other function performed by him in terms of this Act.

38. Receipts to be issued on payment of fees

Immediately upon the payment to him of any fee in terms of section thirty-seven, a poundmaster shall issue a receipt to the person who paid the fee.

39. Stock may be kept in pound until fees are paid

The fees payable to a poundmaster in terms of section thirty-seven in respect of any stock shall be a charge upon the stock, and the poundmaster may retain the stock in his pound as security for the payment of the fees.

40. Persons entitled to benefit from fees

- (1) Where a poundmaster is a full-time employee of the pound authority for his round, any fees paid to him in terms of section thirty-seven shall be for the benefit of the pound authority, and he shall account for them to the pound authority in such manner as the pound authority shall direct.
- (2) Where a poundmaster is not a full-time employee of the pound authority, any fees paid to him in terms of section thirty-seven shall, subject to any contract or arrangement between him and the pound authority, be for his benefit and use.
- (3) For the purposes of this section, a member of the Public Service who is the poundmaster of a pound for which the Minister is the pound authority shall be deemed to be a full-time employee of the Minister.

Part VII – Release, sale or disposal of impounded stock

41. Part VII not to apply to special pounds

The provisions of this Part shall not apply in relation to special pounds, except to the extent that the Minister may declare those provisions to apply in terms of section sixty-two.

42. Release of stock upon payment of fees and charges

- (1) Subject to subsection (2), upon the payment of—
 - (a) all fees due and payable to the poundmaster; and
 - (b) any trespass money or damages due and payable in terms of this Act to the person in charge of any land on which the stock trespassed; and
 - (c) where the stock has been advertised for sale in terms of section forty-four, a proportional part of the expenses incurred in advertising the sale;the poundmaster shall release the stock to its owner or to a person duly authorized by the owner.
- (2) If the owner of any impounded stock is able to pay only part of the fees referred to in paragraph (a) of subsection (1), the poundmaster shall retain only so much of the stock as he considers sufficient to secure the payment of the balance of such fees together with any additional fees that may become payable on the retained stock up to the next sale of stock at his pound.

43. Sale or disposal of impounded stock

Subject to this Part, where any impounded stock has not been released in terms of section forty-two within eight weeks after it was impounded, the poundmaster shall sell such stock at a sale held in terms of this Part.

44. Times and venues sales and notification thereof

- (1) Every pound authority shall ensure that sales of stock impounded in its pounds are held once a month at such dates, times and places as the pound authority shall appoint.
- (2) Every pound authority shall, in December each year, publish a notice in the *Gazette* setting out the dates, times and places which it has appointed for the holding of sales in terms of subsection (1) in each of its pounds during the following year.
- (3) If a pound authority alters any date, time or place set out in a notice published in terms of subsection (2),

the pound authority shall make an appropriate amendment to the notice.

- (4) At least fourteen days before the date of any sale in terms of this Part, the poundmaster of the pound concerned shall publish a notice—
- (a) in a newspaper circulating in the area; and
 - (b) on the notice board at his pound; and
 - (c) in such other manner as the pound authority for his pound may prescribe or direct;
- stating the number and particulars of the stock that is to be sold and time, date and venue of the sale:
- Provided that no stock shall be advertised for sale within fourteen days from the date on which it was impounded.

45. Conduct of sales

- (1) Subject to subsection (3), every sale of stock in terms of this Part shall be by public auction for cash, and the poundmaster or some other person appointed by the pound authority shall act as auctioneer.
- (2) Subject to subsection (3), at any sale of stock in terms of this Part—
- (a) large stock shall be sold singly;
 - (b) small stock shall be sold singly or in lots of not more than ten:
Provided that sheep or goats with different brands or marks shall not be sold together in the same lot;
 - (c) notwithstanding paragraphs (a) and (b), any number of stock treated as one for the purpose of any fee prescribed in terms of Part VI shall be sold as one.
- (3) If at a sale of stock in terms of this Part no bid is received for any stock or only one bid is received and the poundmaster considers it to be unreasonably low the poundmaster shall refuse the bid and report the matter to the pound authority, and shall thereafter dispose of the stock in such manner as the Minister may prescribe.
- (4) A poundmaster shall not directly or indirectly purchase any stock at a sale conducted by him in terms of this Part.
- (5) Any poundmaster who contravenes subsection (4) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

46. Branding of large stock after sale

Where any large stock has been sold at a sale of stock in terms of this Part, before it is delivered to the purchaser the poundmaster shall cause it to be branded with a brand registered in terms of the Brands Act *[Chapter 19:03]* in the name of the pound authority for his pound.

47. Proceeds of sales

Within seven days after the end of any month in which a sale takes place in terms of this Part, the poundmaster shall send to the pound authority for his pound a return showing—

- (a) all stock sold at the sale and the prices received therefor; and
- (b) such other particulars in relation to the sale and the stock as the pound authority may prescribe or require;

and, after deducting all fees, charges and expenses to which he is entitled or which he has paid in terms of this Act, he shall pay the balance of the proceeds of the sale to the pound authority.

48. Payment of balance of balance of proceeds of sale to owner of stock

- (1) If the owner of any stock sold in terms of this Part applies to the pound authority within six months of the sale for the payment to him of any balance paid to the pound authority in terms of section forty-seven in respect of his stock, the pound authority shall pay such balance to him.
- (2) If an owner of any stock sold in terms of this Part does not make an application in terms of subsection (1) within six months of the sale, the balance paid to the pound authority in terms of section forty-seven in respect of his stock shall become part of the general revenues of the pound authority and no claim in respect of that balance shall thereafter lie against the pound authority.

49. Reimbursement of by poundmaster by pound authority

- (1) If the proceeds realised from the sale or disposal of any stock in terms of this Part are insufficient to satisfy all fees to which the poundmaster is entitled in terms of this Act, the pound authority for his pound shall reimburse him the balance of such fees.
- (2) A pound authority may recover from the owner of the stock concerned, by action in a competent court, any amount paid by it to a poundmaster in terms of subsection (1).

50. Recovery of trespass fees, etc., from owner of stock

If the proceeds realised from the sale or disposal of any trespassing stock in terms of this Part are insufficient to satisfy all moneys, fees and damages to which the person in charge of the land trespassed upon is entitled, that person may recover the balance from the owner of the stock concerned. by action in a competent court.

Part VIII – Special pounds

51. Declaration of special pound areas

The Minister, after consultation with the Minister responsible for the administration of the Rural District Councils Act [Chapter 29:13], may declare, by statutory instrument, that any area consisting wholly or mainly of any one or more of the following categories of land—

- (a) Communal Land;
- (b) resettlement land, as defined in the Rural District Councils Act [Chapter 29:13];
- (c) small-scale commercial land, as defined in the Rural District Councils Act [Chapter 29:13];

together with such land contiguous thereto as the Minister may define in the instrument, shall be a special pound area.

52. Right to impound trespassing stock in special pound area

Where a person in charge of any land in a special pound area finds any stock trespassing on his land, he may, subject to section fifty-three, send the stock to the nearest pound in the special pound area.

53. Restrictions on removal of stock to special pound

- (1) If a permit is required under any enactment for the removal of stock from any land, no person shall remove the stock from the land to send it to a pound in terms of section fifty-two unless he has obtained such a permit.
- (2) No person shall remove stock from any land in terms of section fifty-two if the removal of such stock from

the land is prohibited in terms of the Animal Health Act [Chapter 19:01] or any other enactment.

- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

54. Receipt of stock into special pound

- (1) A poundmaster of a special pound shall receive all stock tendered at his pound between sunrise and sunset by any person authorized in terms of this Act to send stock to his pound.
- (2) Stock received into a special pound shall be kept, subject to this Act, in accordance with any regulations or by-laws made by the special pound authority in respect of that special pound.

55. Driving distance, transport and trespass fees

A person in charge of land who has sent stock to a special pound in terms of this Act shall be entitled to be paid by the special pound authority—

- (a) such appropriate driving distance or transport fees; and
- (b) such appropriate trespass fees; as may be prescribed in terms of section sixty-one.

56. Notification that stock is impounded

Without derogation from subsection (2) of section thirty-one, as soon as possible after stock whose owner is unknown has been received into a special pound, the special pound authority shall—

- (a) cause a notice to be posted at its principal offices and at the special pound—
- (i) stating that the stock has been impounded; and
- (ii) indicating the place where the stock was found trespassing or straying; and
- (iii) giving the number and description of the stock; and
- (b) take such steps as it thinks appropriate to locate the owner of the stock and to advise him that it has been impounded.

57. Release of stock from special pound

- (1) If the owner of any stock that has been impounded in a special pound claims the stock and satisfies the poundmaster that he is the owner, the poundmaster shall thereupon release the stock to him.
- (2) An owner to whom stock is released in terms of subsection (1) shall be liable to pay the special pound authority concerned—
- (a) any driving distance or transport fees and trespass fees that the special pound authority has paid in terms of section fifty-five in respect of the stock; and
- (b) such appropriate herding fees as may be prescribed in terms of section sixty-one in respect of herding and tending the stock; and
- (c) such other fees as may be prescribed by the Minister.
- (3) A special pound authority shall not refuse to release any stock to an owner in terms of subsection (1) solely on account of his failure or refusal to pay the fees referred to in subsection (2), but the special pound authority may recover any such fees that are not paid by action in a competent court.

58. Name and address of owner of impounded stock to be supplied

- (1) Where an owner of any stock that has been impounded in a special pound claims the release of the stock, he shall supply the poundmaster of the special pound with his full name and address.
- (2) A special pound authority shall, at the request of a person who has sent stock to its special pound, supply that person with the full name and address of the owner of the stock, where such particulars have been supplied to the poundmaster in terms of subsection (1) or are otherwise known to the special pound authority.

59. Sale of stock impounded in special pound

- (1) If any stock that has been impounded in a special pound has not been claimed within twelve weeks after its impoundment was notified in terms of section fifty-six, the special pound authority may sell the stock by public auction.
- (2) An auction sale of stock in terms of subsection (1) shall be conducted at such time and place and in such manner as may be prescribed or determined by the special pound authority concerned.

60. Application of proceeds of sale of stock

- (1) If the owner of any stock sold in terms of section fifty-nine applies to the special pound authority within six months of the sale for the payment to him of the proceeds of the sale, the special pound authority shall pay him the proceeds, less any fees for which he would have been liable in terms of section fifty-seven if he had claimed the stock on the day of the sale.
- (2) If an owner of any stock sold in terms of section fifty-nine does not make an application in terms of subsection (1) within six months of the sale, the proceeds of the sale shall become part of the general revenues of the special pound authority and no claim in respect of the proceeds shall thereafter lie against the special pound authority.

61. Minister may prescribe fees in respect of special pounds

- (1) The Minister may by statutory instrument prescribe—
 - (a) driving distance and transport fees in respect of the sending or delivery of stock to a special pound;
 - (b) trespass fees payable by a special pound authority in respect of the trespass of stock on land in a special pound area;
 - (c) herding fees payable to a special pound authority in respect of the herding and tending of stock impounded in a special pound.
- (2) Subsection (2) of section twenty-seven shall apply, *mutatis mutandis*, in relation to the prescribing of trespass fees in terms of paragraph (b) of subsection (1).

62. Minister may vary application of Act to special pounds

Notwithstanding any other provision of this Act, the Minister may declare, by statutory instrument, that—

- (a) any of the provisions of this Act which do not apply to special pounds by virtue of sections fifteen, twenty-nine, thirty-six and forty-one, shall apply to all special pounds or to such special pounds as may be specified in the statutory instrument, subject to such modifications as may be specified therein;
- (b) any of the provisions of this Part shall not apply to all special pounds or to such special pounds as may be specified in the statutory instrument, or shall apply subject to such modifications as may be specified therein.

Part IX – General

63. Disputes re fees, charges etc.

- (1) Subject to sections twenty-one and twenty-eight, where any dispute arises as to the correctness of any fee, charge or other moneys claimed by a person in charge of any land or a poundmaster in respect of any stock impounded in a pound other than a special pound, and the parties to the dispute do not agree to resolve it in any other manner, the dispute shall be referred to the pound authority for the pound and the pound authority, after conducting such inquiry as it consider necessary, shall determine the dispute.
- (2) Where any dispute arises as to the correctness of any fee, charge or other moneys claimed from or by a special pound authority in respect of any stock impounded in a special pound and the parties to the dispute do not agree to resolve it in any other manner, the dispute shall be resolved in such manner as may be prescribed by the Minister.

64. Regulations and by-laws

- (1) The Minister may make regulations providing, in relation to pounds generally or in relation to pounds for which he is the pound authority, for all matters which by this Act he is required or permitted to prescribe or which, in his opinion, are necessary or convenient to be prescribed for the proper management and control of pounds, the prevention of straying or trespass by stock and generally for carrying out or giving effect to the provisions of this Act.
- (2) A pound authority which—
 - (a) is a local-authority may make by-laws in accordance with the enactment under which it is established;
 - (b) is not a local authority and is not the Minister may, with the approval of the Minister, make regulations;
providing, in relation to any pound for which it is the pound authority, for all matters which it is required or permitted by this Act to prescribe or which, in its opinion, are necessary or convenient to be prescribed for the proper management and control of its pound or pounds and the prevention of straying or trespass by stock within the area for which it is the pound authority.
- (3) In the event of conflict, regulations made by the Minister in terms of subsection (1) shall prevail over by-laws or regulations made by a pound authority in terms of subsection (2).

65. Molestation of stock

Any person who knowingly and without lawful excuse molests, drives or scatters stock in the lawful charge of another person shall be guilty of an offence and liable to a fine not exceeding level three or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

[section as amended by section 4 of Act No. 22 of 2001]

66. Driving of diseased on to another's land

- (1) Without permission from the person in charge of the land concerned, no person shall drive any stock which he knows or ought to know is suffering from or infected with—
 - (a) a disease specified under the Animal Health Act *[Chapter 19:01]*; or
 - (b) some other communicable disease;on to the land of another person, upon which there is stock of the same species that is not suffering from or infected with the disease concerned.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[subsection as amended by section 4 of Act No. 22 of 2001]

67. Presumptions re scab in sheep and goats

- (1) For the purposes of this Act, if any sheep or goat found trespassing is found to be infected with scab, it shall be presumed unless the contrary is proved that all sheep or goats in the same flock, or in any other flock with which the first-mentioned sheep or goat has become mixed, are similarly infected with scab.
- (2) Any sheep or goats found on urban land to be infected with scab shall be presumed, unless the contrary is proved, to be trespassing and shall be liable to be impounded accordingly.

68. Preservation of remedies for trespass under other laws

Nothing in this Act shall prevent a person who has suffered injury or loss as a result of trespass by any stock from obtaining damages or some other remedy under any other law:

Provided that—

- (i) where such a person institutes proceedings for the recovery of damages under any other law, the owner of any stock impounded in terms of this Act as a result of the trespass shall be entitled to its immediate release from the pound upon payment of all fees and charges up to the date of the release;
- (ii) where such a person has been paid trespass money or damages under section twenty-seven or twenty-eight, he shall not be entitled to further damages;
- (iii) where a special pound authority has paid trespass fees to such a person in terms of section fifty-five, any damages which he is awarded under any other law shall be reduced by the amount of the trespass fees so paid.