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SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

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THE PROVINCIAL COMMISSIONER  
DIE PROVINSIALE KOMMISSARIS

FREE STATE  
VRYSTAAT

BLOEMFONTEIN

9300

All District Commissioner  
South African Police Service  
FREE STATE

**MEASURES TO ADDRESS STRAY ANIMALS: FREE STATE**

1. The South African Police Service are constantly dealing with complaints regarding to stray animals. Attached for your easy reference please find the Free State Pound Ordinance, of 1952, No 18 of 1952.
2. In dealing with the matter of stray animals all members must please act in accordance with the applicable legislation as listed in paragraph 3 and 4 below.
3. When the stray animal is on a Landowners property: Section 18 (1) of the attached Pound Ordinance will apply in that the landowner may request for the impounding of the animals by the nearest pound. The cost incurred will be the responsibility of the owner of the animals once the animals have been identified.
4. **Stray animals on any public road poses an imminent threat to the safety of road users, which is a contravention of the following legislation:-**
  - 4.1 Regulation 313 (1) of the National Road Traffic Regulation, 200 determines that no person shall leave or allow any bovine animal, horse, ass, mule, sheep goat, pig or ostrich to be on any section of the public road, where that section is fenced or in other manner closed along both sides, and no person shall leave such animal in a place from where it may stray onto such section of a public road.
  - 4.2 Regulation 313 (6) determines that a traffic officer (which includes a police official) may take charge of any animal referred to in subsection (1).
5. National Instruction 7 of 2020 paragraph 8(13)(b) directs as follows:
  - 5.1 Stock Theft and Endangered Species Units deals with the reporting of stray animals by the Public.

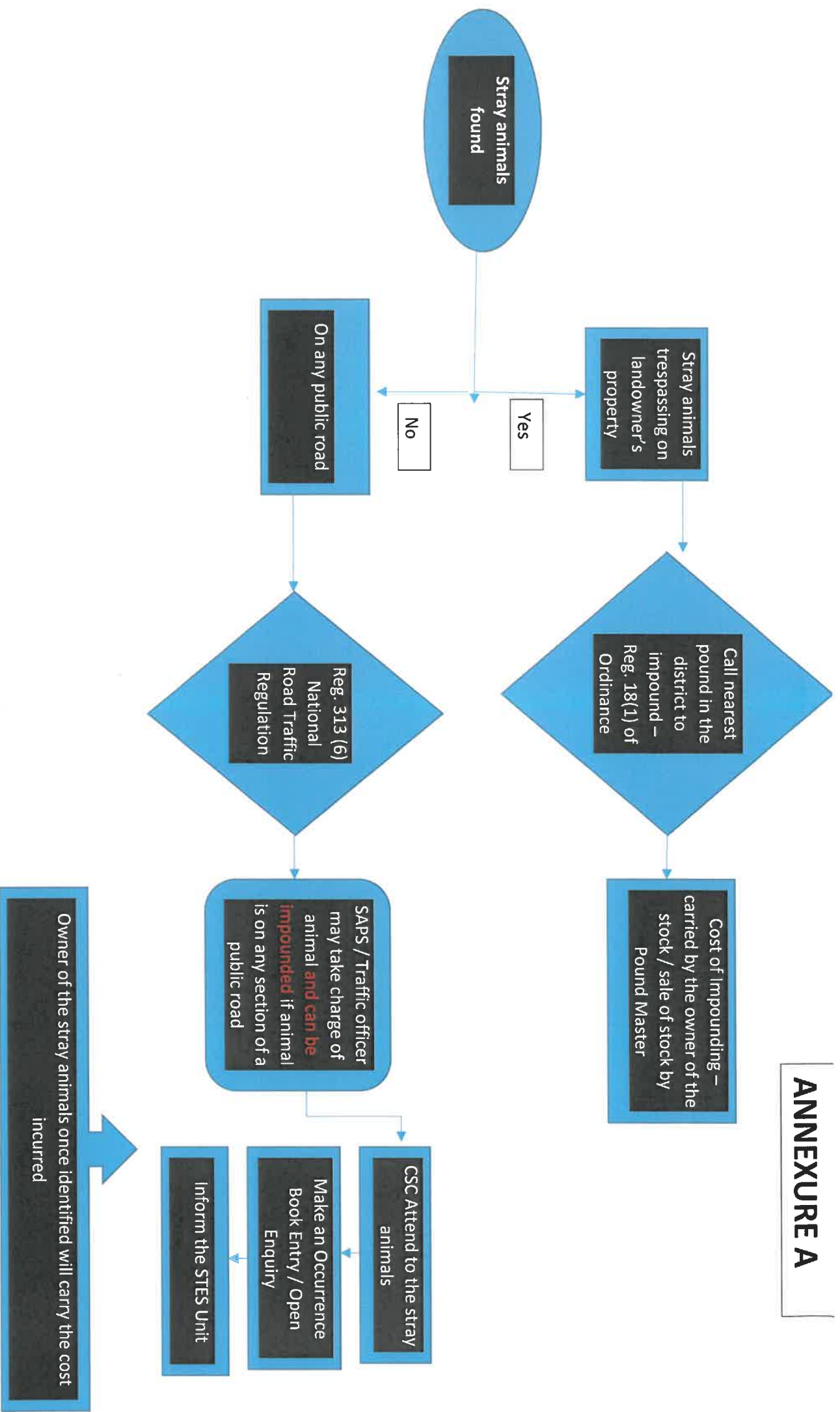
## MEASURES TO ADDRESS STRAY ANIMALS: FREE STATE

- 5.2 It is a function of the Visible Policing personnel to immediately attend to the stray animals and to make an Occurrence Book entry which includes the description of the stray animals.
  - 5.3 Inform the relevant Stock Theft and Endangered Species Unit who will then open an enquiry docket for further investigation.
  - 5.4 Make an entry in respect of the details of the member of the Stock Theft and Endangered Species Unit who has been informed of the stray animals in the public road.
6. Because the responsibility of the cost of impoundment is of concern, Section 14(2)(a)(i) of the Local Government Municipals Structures Act, 2000 (Act No 32 of 2008) will apply and it makes provision, that:
- 6.1. Fees payable:**
- 6.1.1 Section 15 (1) the fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded;
  - 6.1.2 Section 15 (2) determines that the impounded animals may be detained by the pound master in security of payment of the fees and any cost which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner;
7. For your easy reference attached is the relevant legislation as well as a short process flow for compliance.
8. Your cooperation is appreciated.

  
**MAJOR GENERAL  
DEPUTY PROVINCIAL COMMISSIONER: POLICING  
FREE STATE  
TS LESIA**

Date: 2021/8/21

# ANNEXURE A



**POUND ORDINANCE  
NO. 18 OF 1952**

[ASSENTED TO BY THE GOVERNOR-GENERAL-IN-COUNCIL ON THE 16 MARCH, 1953 – AFRIKAANS  
TEXT SIGNED.]

[DATE OF COMMENCEMENT: 3 APRIL, 1953]

**as amended by**

Pounds Amendment Ordinance, No. 6 of 1965  
Pound Amendment Ordinance, No 13 of 1968  
Pounds Amendment Ordinance, No. 9 of 1974  
Pounds Amendment Ordinance, No. 13 of 1977  
Pounds Amendment Ordinance, No. 16 of 1980  
Pounds Amendment Ordinance, No. 4 of 1982  
Pound Amendment Ordinance, No. 18 of 1984  
Delegation of Functions Act, No. 4 of 1994  
[with effect from 24 June, 1994]

**GENERAL NOTE**

**In terms of Proclamation No. 113 of 17 June, 1994, the administration of Ordinance No. 18 of 1952 has been assigned to this Province.**

**In terms of s. 3 (1) (b) of Act No. 4 of 1994, the words "Administrator" or "Minister", wherever they occur, are substituted by the expression "responsible Member".**

**ORDINANCE**

**To Consolidate and Amend the Law relating to Pounds.**

BE IT ORDAINED by the Provincial Council of the Orange Free State as follows:—

CHAPTER I  
PRELIMINARY

**1. Definitions.**—In this Ordinance, unless inconsistent with the context:—

**"Administrator"** . . . . .

[Definition of "Administrator" amended by s. 1 (a) of Ord. 9 of 1974 and deleted by s. 3 (1) (a) of Act No. 4 of 1994.]

**"Municipality"** shall include Town Council, Village Management Board, or any other Managing Body of a community empowered by law to establish a pound and frame regulations in respect thereof or the area under the control of such Council, Board, or Managing Body as the context may indicate;

**"Owner"** shall include the owner or the person in possession of any animal and his agent;

**"Landowner"** shall mean any owner, lessee or occupier of land;

**"Large stock"** shall include cattle and horses;

**"responsible Member"** means the member of the Executive Council of the Province responsible for the administration of this law;

[Definition of "responsible Member" inserted by s. 3 (1) (c) of Act No. 4 of 1994.]

"**Small stock**" shall include rams, ewes, wethers, lambs, he-goats, she-goats, wether-goats and kids;

"**Stock**" shall include all large and small stock and domesticated ostriches;

"**Cattle**" shall include bulls, cows, oxen, heifers, tollies and calves;

"**Horses**" shall include stallions, mares, geldings, colts, fillies, donkeys and mules;

"**Magistrate**" shall mean the magistrate of the district or sub-district in which any pound is established.

## CHAPTER II ESTABLISHMENT OF POUNDS AND APPOINTMENT OF POUND-MASTERS

### **2. Establishment of Pounds.**—Pounds may be established for the impounding of stock:—

- (1) As Government pounds, by the responsible Member at such places as he may deem fit; provided that no Government pound shall be established within a distance of 20 km from another Government pound.  
[Sub-s. (1) amended by s. 2 of Ord. 9 of 1974.]

- (2) As Municipal pounds, by Municipalities in accordance with legal provisions relating to pounds.

**3. Pounds previously established governed by this Ordinance.**—(1) All pounds lawfully established at the date of the taking effect of this Ordinance in terms of the Pound Consolidation Ordinance No. 5 of 1929 shall be deemed to have been lawfully established under this Ordinance and shall be subject to the provisions thereof.

(2) All pound-masters lawfully appointed at the said date shall be deemed to have been appointed under the provisions of this Ordinance and shall be subject thereto.

(3) All Municipal pounds, established at the said date in accordance with any municipal regulations shall be deemed to have been established under this Ordinance and shall be subject to such provisions thereof as may apply thereto.

**4. Responsible Member may abolish Government pounds.**—The responsible Member may from time to time, if he deems it expedient, abolish any Government pound by notice in the *Official Gazette*.

**5. Appointment of pound-masters.**—Pound-masters shall be appointed by notice in the *Official Gazette*:—

- (1) In the case of Government pounds by the responsible Member and such pound-masters may be dismissed in like manner by him if and when he may deem advisable.
- (2) In the case of Municipal pounds by the Municipality and such pound-masters shall hold office and be liable to dismissal in terms of any regulations in force in the Municipality relating to pound-masters or of any agreement between the Municipality and the pound-masters made under such regulations; provided that in the case of a contravention by a pound-master of any of the provisions of this Ordinance which may apply to him, the responsible Member can dismiss him and cancel such agreement.

**6. Security to be found by pound-masters.**—All pound-masters appointed at Government or Municipal pounds after the taking effect of this Ordinance shall on appointment as such give security in a sum of two hundred rand to the responsible Member or the Municipality in question, as

the case may be, for the due payment of all moneys for which they are responsible. Such surety bonds in existence at the coming in force of this Ordinance shall be deemed to have been legally entered into under this Ordinance.

[S. 6 amended by s. 3 of Ord. 9 of 1974.]

**7. Pound brands.**—(1) To every pound a distinctive brand shall be assigned in the case of Government pounds by the responsible Member and in the case of Municipal pounds by the Municipality in question.

(2) Such brand shall be registered in terms of the Livestock Brands Act, 1962 (Act No. 87 of 1962) and shall not be transferable to any other person.

[Sub-s. (2) substituted by s. 4 of Ord. 9 of 1974.]

### CHAPTER III DUTIES AND LIABILITIES OF POUND-MASTERS

**8. Duties of pound-masters.**—(1) It shall be the duty of every pound-master:—

- (a) to provide, keep and maintain in good repair a pound kraal or kraals with proper divisions for enclosing large and small stock separately and also such kraals and enclosures as may be required for the segregation of animals where such segregation is necessary under the provisions of this Ordinance. Such kraals and divisions shall be sufficiently large, strong and secure to contain the stock impounded and to keep them safely and shall conform to any further requirements which the responsible Member may lay down;
- (b) to receive or cause to be received all animals tendered at the pound between sunrise and sunset in accordance with the provisions of this Ordinance or any law; provided that no pound-master shall be compelled to pay driving fees in respect of any animal which is so badly injured that there is no reasonable hope of its recovery or so badly deformed or so diseased or decrepit that it is in the opinion of the pound-master for all practical purposes valueless;  
[Para. (b) amended by s. 5 (a) of Ord. 9 of 1974.]
- (c) to see that some person is present to act for him in his absence;
- (d) to take proper care of all impounded animals;
- (e) to send all impounded animals out to graze on the day following that on which they were impounded and on every subsequent day from six o'clock in the forenoon to six o'clock in the afternoon during the months of October to April inclusive, and from eight o'clock in the forenoon to five o'clock in the afternoon during the months May to September inclusive.

(2) In case any damage or loss is caused to any person by reason of the negligence or default of the pound-master in carrying out his duty under the provisions of sub-section (1) the said pound-master shall be liable on conviction to a fine not exceeding ten rand.

[Sub-s. (2) amended by s. 5 (b) of Ord. 9 of 1974.]

(3) In the case of the death or injury of any impounded animal, the pound-master shall enter in his pound book a description of such animal and, as far as can be ascertained, the cause of its death or injury; the absence of any such entry or its falsity in any material respect, shall, for the purposes of this Ordinance, be held to be *prima facie* proof of the fact that the death or injury in question was due to the negligence or default of the pound-master.

**9. Knee-haltering of horses and mules.**—Impounded horses and mules may be hobbled or kneehaltered with soft prepared riems when sent out to graze but such halter or riems shall be

removed at night. A pound-master failing to remove the same shall be guilty of an offence and on conviction liable to a fine not exceeding ten rand.

[S. 9 amended by s. 6 of Ord. 9 of 1974.]

**10. Penalty for working impounded animals.**—A pound-master who rides or otherwise uses or causes an impounded animal to be used or knowingly permits such animal to be ridden or otherwise used, shall be guilty of an offence and on conviction liable to a fine not exceeding ten rand.

[S. 10 amended by s. 7 of Ord. 9 of 1974.]

**11. Compensation for damages caused by negligence or default of pound-master.**—Whenever a pound-master is convicted under the provisions of Section eight, nine or ten the Court shall at the same time give judgment for the amount of the loss or damage, if any, caused to the complainant.

**12. Receipt for stock impounded.**—The pound-master shall give to the person delivering animals into his charge a written receipt signed by him or on his behalf setting forth the number and description of the animals so delivered and specifying the reason for the impounding. The pound-master shall send a copy of the aforementioned receipt to the nearest Police Station.

**13. Pound Book.**—(1) Every pound-master shall keep a book in a form prescribed by the responsible Member in which he shall enter carefully the details of the impounded animals.

(2) Such pound book shall be kept at the residence of the pound-master or at the pound and shall at all reasonable times be open for inspection by any member of the Police Force or by any person requiring information concerning impounded stock.

**14. Penalty for making false entries in Pound Book.**—A pound-master who deliberately makes a false entry in his pound book or who fraudulently destroys or erases any entry already made, shall be guilty of an offence and on conviction liable to a fine not exceeding fifty rand or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

[S. 14 amended by s. 8 of Ord. 9 of 1974.]

**15. Application of laws relating to stock diseases.**—The provisions of existing laws in force in respect of stock diseases and scab in sheep or goats shall apply to all impounded animals and the pound-master shall in respect thereof be subject to the said provisions in the same manner as a person having such animals in his possession or under his charge or as is otherwise in such laws provided; provided that:—

(1) the pound-master shall not destroy any such animal without an order of a Government veterinary surgeon or other competent authority under the said laws.

(2) the pound-master shall not receive into the pound, unless it is a special isolation pound, any animal infected or suspected of being infected with disease.

**16. Isolation of dangerous animals.**—The pound-master shall not receive into a pound kraal an animal which is dangerous to other animals impounded but shall keep such animal apart from the other animals in a separate kraal or place provided for that purpose and shall apply to the nearest Magistrate or Justice of the Peace for instructions how to act. On the instructions of the said officer the pound-master may destroy or otherwise deal with such dangerous animal in accordance with such instructions.

**17. Impounding of stock trespassing on pound farm.**—No pound-master or occupier of a pound farm shall impound or cause to be impounded in any pound other than the pound situated on such farm any stock trespassing on such farm; provided that, except in the case of stock which trespassed on land within the jurisdiction of a Municipality, a pound-master shall not charge any driving fees in respect of stock, which trespassed on the farm on which his pound is situated. Any person contravening the provisions of this Section shall be guilty of an offence and on conviction liable to the penalties hereinafter prescribed.

[Proviso to s. 17 substituted by s. 1 of Ord. 6 of 1965 and amended by s. 10 of Ord. 9 of 1974.]

CHAPTER IV  
IMPOUNDING OF STOCK

**18. Impounding of stock.**—(1) A Landowner on whose land stock is found trespassing and who wishes to impound such stock in terms of this Ordinance shall send the same to that pound which is the nearest by any passable road or thoroughfare to the land trespassed upon whether the said pound is in the district in which the said ground is situate or in another district; provided that, if the way to the nearest pound be impassable or dangerous by reason of the flooding of rivers or brooks, such stock may be sent to the nearest pound which can be reached without crossing such rivers or brooks.

(2) The stock of any person trekking on any public road found on any outspan beaoned off according to law or on any part of a farm which is subject to the right of outspan and on which no outspan has been so beaoned off, shall not be deemed to be trespassing save as hereinafter mentioned; provided that any such trekking stock:—

- (a) which has caused damage to a garden or cultivated land or the crops thereon or to a wall, fence, dam or watercourse, or to hay, wheat, forage or other cereals grown or kept on any such farm; or
- (b) which is found trespassing in terms of the Roads Ordinance, 1968 (Ordinance No. 4 of 1968), or of any amendment thereof or has remained longer on such farm than by such Ordinance or amendment thereof is permitted; or  
[Para. (b) amended by s. 11 of Ord. 9 of 1974.]
- (c) which is watered or is driven or strays to drink at any water in respect of which no drinking right is provided or agreed upon in terms of the said Ordinance or amendment thereof,

shall be deemed to be trespassing and may be impounded as hereinafter provided.

**19. Impounding of stock before sunrise prohibited.**—No owner of land situate outside a Municipality who finds animals trespassing on such land has the right to remove such animals from the land for the purpose of impounding them before sunrise.

**20. Detention of stock before impounding.**—(1) (a) No person may detain for a longer period than twenty-four hours stock which has trespassed on his land and which he has secured for the purpose of impounding.

(b) No such stock so detained shall be tied up or shall be confined in any building, shed, yard, kraal or other like enclosure without food and water for a longer period than twelve hours.

(c) Such stock shall be sent out to graze from nine o'clock in the forenoon until five o'clock in the afternoon or shall otherwise be provided with proper and sufficient food and water during the period of detention.

(2) Any person contravening any of the provisions of sub-section (1) hereof shall be guilty of an offence and on conviction liable to the penalties hereinafter prescribed.

**21. Stray stock not to be detained longer than fourteen days.**—(1) No landowner shall knowingly allow any stray stock to remain on his land for a period longer than fourteen days but he shall before the end of such period either:—

- (a) notify the owner of the stock or secure such stock and send the same to the pound; or
- (b) in case such stock be too wild to be sent to the pound give notice to the Magistrate accompanied by two affidavits as to the facts of the case. On receipt thereof the Magistrate may authorise the sale of such stock at the farm where they are running

by the pound-master to whose pound the same would have been sent and in such a case the provisions of Chapter VI of this Ordinance shall *mutatis mutandis* apply; or

(c)

in case such stray animal be so badly injured that there is no reasonable hope of its recovery or so badly deformed or so diseased or decrepit that it is for all practical purposes valueless, give notice thereof to the nearest police station and the chief police officer in charge of such station is hereby empowered to destroy such animal.

(2) A landowner allowing stray stock to remain on his land in contravention of the provisions of sub-section (1) hereof shall be guilty of an offence and shall on conviction be liable to the penalties hereinafter prescribed.

**22. Prohibition of use of stray stock.**—A person who rides, works, uses or harasses, illtreats or overdrives any stock found trespassing or being sent to the pound shall be guilty of an offence and on conviction shall be liable to the penalties hereinafter prescribed.

**23. Recovery of compensation.**—The Court convicting any person under the provisions of section twenty-one or twenty-two shall at the same time give judgment for the amount of the loss or damage, if any, caused to the complainant by reason of the illegal act of the person convicted.

**24. Penalties for certain offences.**—A person who:—

(1) drives or sends to the pound large and small stock together in one herd; or

(2) otherwise than on foot drives or permits to be driven small stock to a pound;

shall be guilty of an offence and on conviction be liable to the penalties hereinafter prescribed.

#### CHAPTER V

#### FEES AND OTHER CHARGES, DAMAGES AND RELEASE OF STOCK

**25. Trespass fees and mileage.**—(1) The pound-master upon delivery of any stock at his pound shall, if so required, forthwith pay to the person delivering such stock trespass fees and driving fees at the rates hereinafter specified, provided that:—

(a)

driving fees shall be paid only in respect of one person notwithstanding the fact that such stock may have been brought to the pound by more than one person;

(b)

no driving fees shall be allowed for any distance over 30 km nor for the return journey of the person delivering the stock;

[Sub-s. (1) amended by s. 13 (a) of Ord. 9 of 1974.]

(2) The trespass fees payable under this section shall be assessed at an amount equal to one-half of the amount of the pound fees prescribed in Section twenty-eight but shall in no case exceed the sum of four rand in the case of large and small stock or be less than fifty cents in the case of large stock and ten cents in the case of small stock.

[Sub-s. (2) amended by s. 13 (b) of Ord. 9 of 1974.]

(3) The driving fees referred to in subsection (1) shall be calculated as follows:

(a)

In the case of stock (excluding domesticated ostriches) whether one or more driven together to the pound, forty-five cents per kilometre or part thereof:

Provided that in the case of—

(i)

a lot consisting of more than fifty small stock or twenty large stock, it shall be calculated at a rate of one rand per kilometre or part thereof; and

(ii)

small stock and donkeys, the total amount payable shall not exceed an amount calculated at a rate of one rand and fifty cents per head; and

[Para. (a) substituted by s. 1 of Ord. 18 of 1984.]

(b)

in the case of domesticated ostriches, twenty-five cents per head per kilometre or part thereof.

[Sub-s. (3) substituted by s. 13 (c) of Ord. 9 of 1974.]

(4) If stock, being the property of different persons, is sent to the pound in one lot the landowner or pound-master shall not be entitled to demand the full driving fees from each owner separately, but the driving fees shall be paid by the different owners in proportion to the number of their stock.

[Sub-s. (4) amended by s. 13 (d) of Ord. 9 of 1974.]

(5) The pound-master on paying such driving fees and trespass fees shall take a receipt therefor which he shall exhibit to the owner on release of such stock.

[Sub-s. (5) amended by s. 13 (e) of Ord. 9 of 1974.]

**26. Statement of number of stock and damage suffered to accompany stock.—**

(1) Every landowner who personally brings stock to the pound shall verbally or if he sends the same in charge of another person, in writing furnish to the pound-master particulars of the number of animals sent to the pound, the place from which they were sent and its distance from the pound together with his claim for damage done, if any, as duly assessed in terms of Section thirty two.

(2) The pound-master shall not receive any stock into the pound nor be liable to pay any driving fees therefor unless and until he has received such statement; provided that if the statement be otherwise complete and the distance only from the pound of the place from which the animals were sent, is missing, the pound-master shall receive such stock but shall not pay driving fees in respect thereof until the statement has been completed in that respect. The pound-master shall make entry of the particulars given as aforesaid in his pound book and shall retain the original written statement, if any.

[Sub-s. (2) amended by s. 14 of Ord. 9 of 1974.]

**27. Penalty for dividing stock for purpose of claiming extra driving fees.—**(1) No person shall divide stock of the same species found trespassing at the same time into more than one lot in order that the same may be sent to the pound separately for the purpose of claiming additional driving fees.

(2) Any person dividing stock as mentioned in sub-section (1) and receiving additional driving fees therefor shall be guilty of an offence and shall be liable on conviction to the penalties hereinafter prescribed and the Court shall at the same time give judgement that any such additional driving fees shall be refunded to the pound-master or the owner as the case may be.

(3) Nothing in this Section contained shall prohibit the sending of different kinds of stock to the pound in separate lots and in such a case driving fees shall be payable for each separate lot.

[S. 27 amended by s. 15 of Ord. 9 of 1974.]

**28. Pound and grazing fees.—**The following shall be collected by the pound-master of a government pound from the owner of impounded stock:

(a)

The pound and grazing fees prescribed by the responsible Member by regulation; and

(b)

the cost incurred in advertising the sale of impounded stock in the case where such stock was released before such sale.

[S. 28 substituted by s. 1 of Ord. 13 of 1977.]

**29. Release of impounded stock on payment of all charges.—**(1) On payment of the charges payable under section twenty eight, together with the driving fees, trespass fees and any claim for compensation for damage duly estimated as hereinafter provided and all further fees legally claimable by the person impounding the stock under this Ordinance, the pound-master shall forthwith deliver the impounded stock to the owner thereof or the person duly authorised by the

owner. Provided that a poundmaster shall not be compelled to deliver such stock except between 06h30 and 18h30 on any other day which is not a Sunday or public holiday.

[Sub.s (1) amended by s. 17 (a) of Ord. 9 of 1974 and proviso to s. 29 inserted by s. 1 of Ord. 16 of 1980.]

(2) Any pound-master failing to deliver such stock shall be guilty of an offence and on conviction liable to a fine not exceeding twenty rand or in default of payment to imprisonment with or without hard labour for a period not exceeding one month and in case of a second offence shall in addition forfeit his office as pound-master.

[Sub-s. (2) amended by s. 17 (b) of Ord. 9 of 1974.]

**30. Retention of stock as security for payment of pound fees, etc.**—If the owner applies to the pound-master for the release of any impounded stock but is unable then and there to pay all the moneys owing in terms of the last preceding Section, the pound-master shall retain only such number of the said stock as shall be sufficient to secure payment of the said moneys upon the release or sale of the stock retained, as the case may be, and shall deliver the remainder of the stock to the owner.

**31. Owner must release impounded animals.**—The Pound-master shall, in every case where the name and address of the owner of an impounded animal is or becomes known to him prior to the sale of such animal in terms of Chapter VI, issue an order in writing to such owner to remove the animal and to pay all charges due in respect thereof in terms of this Ordinance. Any owner who fails to comply with any such order within fourteen days of the receipt thereof, shall be guilty of an offence and on conviction, liable to the penalty hereinafter provided and the Court convicting any person under the provisions of this Section shall at the same time give judgment in the matter of the pound fees, charges and expenses claimed by the pound-master.

**32. Estimate of damage.**—Where damage has been done by the impounded stock the landowner who suffered the damage shall be entitled to cause such damage to be estimated by two impartial persons and in such case the following provisions shall apply:—

(1) The landowner shall at the time when the stock is impounded furnish to the pound-master written notice of such estimate and the costs thereof together with the estimate list signed by the valuers.

(2) The stock shall not be released by the pound-master until the amount of the estimate and costs be paid to the pound-master, and a pound-master who releases such stock without having obtained payment of the said estimate and costs shall be personally liable for the payment of the said amount to the proprietor.

(3) In the case of the sale of stock the balance of the proceeds after payment of all other fees and charges herein prescribed or so much of the said balance as may be sufficient shall be applied to the payment of the estimated damages and costs as aforesaid.

**33. Assessment of damage.**—(1) If the owner of the stock disputes the estimate of the damage as being too high he may pay the amount of damage as estimated to the pound-master or the landowner, as the case may be, under protest and may demand that such damage be assessed by a commission consisting of the nearest Justice of the Peace as Chairman and two landowners as arbitrators; provided that the cost of the Commission be borne by the party who is found to be in the wrong.

(2) In cases where the damage is assessed by a commission the following provisions shall apply:—

- (a) The landowner and the owner of the animals shall each appoint one arbitrator;
- (b) if the nearest Justice of the Peace is absent from his home, or is unable or unwilling or fails to act, then the two arbitrators appointed shall select some impartial landowner to act as umpire in the place of the Justice of the Peace;
- (c)

The Justice of the Peace or the umpire, as the case may be, shall fix a suitable time for the investigation of the property on which the trespass occurred;

(d) the decisions of the commission are final.

**34. Cost of estimate or assessment of damage.**—The cost of the estimate or assessment of the damage, as provided for in the two preceding sections, shall be R15,00 per day or part of a day spent in making such estimate or assessment plus 25c per kilometre travelling expenses and shall be payable to the Justice of the Peace or umpire and each estimator or arbitrator engaged in the estimate or assessment.

[S. 34 substituted by s. 1 of Ord. 4 of 1982.]

**35. Release of stock before impounding.**—(1) The landowner or his representative on whose land stock has trespassed shall release such stock to the owner thereof before the said stock has been removed from the property trespassed upon on such owner tendering to the said landowner or his representative the amount of the trespass fees assessed in terms of sub-section (1) of Section twenty five and the amount of any damages estimated in terms of Section thirty two together with the costs of such estimate.

(2) The landowner on whose land stock has trespassed and who has caused such stock to be removed therefrom and sent to the pound in terms of Section eighteen shall either personally or through his representative who has such stock in his care release such stock to the owner thereof if, prior to the arrival of the stock at the pound, such owner tender to such landowner or his representative the amount of the trespass fees and the full driving fees calculated from the property trespassed upon to the pound as prescribed in sub-section (1) of Section twenty five and the amount of any damages estimated in terms of Section thirty two together with the costs of such estimate.

[Sub-s. (2) amended by s. 19 (a) of Ord. 9 of 1974.]

(3) Where the landowner or his representative, as the case may be, refuses to accept the amount tendered as aforesaid and to release the stock the landowner shall be guilty of an offence and, on conviction, liable to a fine not exceeding ten rand and the Court may at the same time give judgment that the landowner pay to the owner of the stock by way of compensation a sum not less than four times the amount of the pound fees and of the damage and driving fees, if any, payable as aforesaid.

[Sub-s. (3) amended by s. 19 (b) of Ord. 9 of 1974.]

(4) In case the landowner on whose land stock has trespassed is absent from such land at any time he shall before leaving the land appoint a person as his representative and authorise such person to receive on his behalf any moneys tendered in terms of sub-section (1) hereof by the owner of the stock.

**36. Penalty for rescuing of stock by force.**—A person who rescues or attempts to rescue or who incites or assists any other person to rescue any animals impounded or on their way to the pound or seized and detained for the purpose of impounding, shall be liable to prosecution and, on conviction, to a fine not exceeding twenty rand or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

[S. 36 amended by s. 20 of Ord. 9 of 1974.]

## CHAPTER VI SALE OF IMPOUNDED STOCK

**37. Sale of impounded stock – procedure.**—Whenever any stock has been impounded and has not been released on due application having been made within a period of twenty one days from the date of such impounding the pound-master shall sell such stock by public auction on the first ensuing sale day fixed for the sale of impounded stock and in case of such sales the following provisions shall apply:—

(1) Notice of such sale shall be published by the pound-master in the *Official Gazette* at least fourteen days before the sale is held. In the notice shall be set forth a description of the stock to be sold and of the farm or place, ward and district where such sale is to be held; provided that a donkey or goat may be sold on the first day fixed for the sale of impounded stock after expiration of a period

of seven days from the date of impounding without any notice of such sale being given in the *Official Gazette*.

(2) The pound-master shall on sending such notice to the *Official Gazette* at the same time post a copy thereof in some conspicuous place at or near his pound there to remain until the day of sale and shall further send a copy thereof to every pound-master within his ward including pound-masters of Municipal pounds and every pound-master receiving such copy shall post the same in a conspicuous place at or near his pound there to remain until the date of sale therein mentioned. For making and sending copies as aforesaid the pound-master shall be entitled to a fee of fifty cents to be recovered from the proceeds of the sale.

[Sub-s. (2) amended by s. 21 (a) of Ord. 9 of 1974.]

(3) Every animal offered for sale shall be previously branded with the ordinary pound brand and with the Government pound mark O above it. Small stock shall be branded as aforesaid on the nose with a small branding iron to be kept for that purpose.

(4) Such sales shall be held on Wednesdays at one o'clock in the afternoon provided that in the case of Municipal pounds such sales shall be held on such day and hour as the Municipality shall by regulation provide; provided further that if the said Wednesday or day on which a pound sale must take place be a public holiday such pound sale shall be held on the first following working day.

[Sub-s. (4) amended by s. 1 of Ord. 13 of 1968.]

(5) Stock shall be put up for sale in the following manner:—

(a) All large stock shall be sold per head provided that female animals with suckling young shall be sold with their young.

(b) All small stock shall be sold in lots not exceeding ten in number.

(6) No pound-master shall be required to take out an auctioneer's licence or to account for any Government dues in respect of such sales.

(7) Every such sale shall be for cash and shall be held in the case of Government pound sales at the pound and in the case of Municipal pound sales at such place or places as may by regulation of the Municipality be prescribed.

(8) The pound-master shall not directly or indirectly by himself or his wife or children purchase at such sale any stock put up by him for auction.

(9) In the event of any animal having been duly put up for sale by auction under the foregoing provisions and remaining unsold by reason that no offer was made for the same the pound-master shall report the case to the Magistrate stating the estimated value of such animal and the fees, charges and expenses incurred in respect thereof and the Magistrate shall thereupon give such orders as to putting up the said animal again to auction or otherwise as to the disposal thereof as in the circumstances he may deem advisable.

(10) A pound-master contravening any of the provisions of this Section shall be guilty of an offence and, on conviction liable to the penalties hereinafter prescribed.

**37A. Sale of impounded stock by auctioneer.**—(1) Instead of selling the stock referred to in section 37 himself, the pound-master may sell such stock by public auction through an auctioneer after not less than fourteen days notice, with a description of the stock involved, has been given of the date and place of such sale in the press.

(2) The provisions of section 37 (2), (3), (8), (9) and (10) shall *mutatis mutandis* apply in connection with such pound-master and sale.

(3) No auction dues shall be payable in terms of the Auction Dues Ordinance, 1934 (Ordinance No. 9 of 1934) in respect of such sale.

(4) For the purposes of this section "press" means the press referred to in section 175 of the Local Government Ordinance, 1962 (Ordinance No. 8 of 1962).

[S 37A inserted by s. 22 of Ord. 9 of 1974.]

**38. Claims for damages payable out of proceeds of sale.**—From the proceeds of any such sale the pound-master shall after deduction of any amounts due to him under this Ordinance for driving fees and other fees and charges including the expenses of such sale and the advertisement thereof, pay the amount of any damages duly claimed to any person who may be entitled thereto in terms of this Ordinance so far as such proceeds may be sufficient for such purpose.

The pound-master shall not be liable to make good any shortfall in respect of such claims but the person entitled to the same may recover the same from the owner of the stock so impounded and sold.

[S. 38 amended by s. 23 of Ord. 9 of 1974.]

**39. Balance of proceeds to be paid into the Provincial Revenue Fund.**—(1) The pound-master shall on the first day of the month following such sale render to the Magistrate, a return thereof in the form prescribed by the provisions of the law in force in respect of public auctions accompanied by formal declarations and proper certificates from the several buyers and shall pay to the Magistrate any balance of the proceeds of such sale after the deductions of the amounts mentioned in the preceding Section, and after deduction of ten per cent of such balance to be retained by such pound-master for his own use.

(2) The Magistrate shall pay into the Provincial Revenue Fund the amount received by him as aforesaid and such amount may be refunded to the owner on application made within twelve months from the date on which the same was received by the Magistrate.

(3) A pound-master failing to make such return or to pay to the Magistrate the balance of such proceeds as aforesaid shall be guilty of an offence and, on conviction, liable to the penalties hereinafter prescribed.

(4) In case the proceeds of a pound sale do not realise the amount expended by or due to the pound-master in terms of the provisions of this Ordinance, such pound-master shall be entitled to claim the amount of any such deficiency from the responsible Member; provided, however, that nothing in this subsection contained shall be deemed to affect the provisions of Section thirty eight or in any way render the responsible Member liable in respect of the amount of any claim for damages which being in excess of the proceeds of sale, may nevertheless have been paid by the pound-master.

**40. Application of this chapter to all pounds.**—The provisions of this chapter, excepting the provisions in Section thirty nine in regard to the payment on behalf of the Provincial Revenue Fund of the balance of the proceeds of sales and the provisions of sub-section (4) of the aforesaid Section, shall apply to sales of stock at Municipal as well as Government pounds anything in any Municipal regulation or any contract entered into between the Municipality and the pound-master to the contrary notwithstanding.

## CHAPTER VII MUNICIPAL POUNDS

**41. Application of this Ordinance to Municipal pounds.**—(1) A municipal pound shall serve as a government pound for the impounding of stock found trespassing outside the boundaries of the municipality concerned and, with the exception of pound and grazing fees, which such municipality is hereby empowered to determine by resolution, the same fees, charges and damages shall be payable in connection with the impounding of such stock as are payable in terms of this Ordinance in connection with stock impounded in a government pound.

[Sub-s (1) substituted by s. 2 of Ord. 13 of 1977 and amended by s. 2 of Ord. 18 of 1984.]

(2) Save where express provision is otherwise made the provisions of this Ordinance shall *mutatis mutandis* apply in respect of Municipal pounds in all matters which are not specifically dealt with by municipal regulations in force in that behalf; provided, however, that the provisions of Section seventeen shall not apply to municipal pounds.

**42. Municipal regulations in respect of pounds.**—A Municipality can make, repeal and amend regulations under the provisions of any law in force with regard to Municipalities in respect of any of the following matters:—

- (1) The conditions under which animals found within the limits of the Municipality may be impounded and released;
- (2) the class of animals so found which may be impounded;
- (3) the pound fees and charges payable in respect of such animals;
- (4) the estimate and payment of compensation for damages done by such animals liable to impounding;
- (5) the appointment and dismissal of pound-masters;
- (6) the letting of the Municipal pound to the pound-master;
- (7) the control of animals impounded in the Municipal pound;
- (8) the place or places within the Municipality where and the time at which pound sales may be held;
- (9) the providing of fodder to any impounded animal where necessary.

**43. Pound fees and charges and balances of proceeds of sales to accrue to Municipality.**—All pound fees and charges imposed in respect of Municipal pounds as well as any balance of proceeds of sales shall accrue to the Municipality unless otherwise provided for in any contract entered into with the Municipal pound-master; provided that the provisions of sub-section (2) of Section thirty nine hereof, with reference to the refund of balances of proceeds of sales to owners shall also apply to Municipalities.

#### CHAPTER VIII MISCELLANEOUS

**44. Stock sent to the pound on behalf of Government.**—Pound-masters of all pounds whether Government or Municipal shall accept and detain there any stock which may be sent to them for detention on behalf of the Government by any Magistrate, Justice of the Peace or officer in charge of the Police of the Municipality or ward wherein such pound is situate and shall in respect of such stock have the same responsibility and be charged with the same duties as are prescribed in this Ordinance in the case of animals impounded thereunder, and shall be entitled to charge in respect of such stock the pound and grazing fees set forth in Section twenty eight; provided, however, that the provisions of Section twenty eight, which limits the period during which grazing fees may be charged to twenty eight days shall not apply to stock impounded under this Section. Such fees shall be a first charge upon such animals and shall be paid before the pound-master is bound to release them; provided further that in the case of animals thus impounded which are alleged or proved to have been stolen, such animals shall not be subject to the provisions of Chapter VI but shall be released only by order of the Court or on instructions from the Magistrate by whose order they were impounded and against payment of the fees aforesaid.

[S. 44 amended by s. 25 (b) of Ord. 9 of 1974.]

**45. Special penalty for trespass among breeding stock.**—The landowner of a farm amongst whose breeding stock any stallion, bull, sheep-ram or goat-ram trespasses, shall in addition to his general rights of impounding and compensation for damage done, be entitled to claim the following special penalties from the owner or person in charge of such stallion, bull, sheep-ram or goat-ram, namely:—

- (a) For every horse or donkey stallion over eighteen months old trespassing among breeding mares a sum of five rand for each such trespass.
- (b) For every bull over twelve months old trespassing among breeding cattle a sum of five rand for each such trespass.
- (c) For every sheep-ram or goat-ram over six months old trespassing among breeding ewes or she-goats the sum of one rand for each such trespass.

[S. 45 amended by s. 26 of Ord. 9 of 1974.]

**46. Penalties to be recovered by action in Magistrate's Court.**—The aforesaid penalties claimed by the landowner as hereinbefore set forth may be recovered from the owner as aforesaid by action instituted in the Magistrate's Court.

**47. Enticement by female animals a good defence.**—In the case of an action brought for the recovery of a penalty as aforesaid, if the owner of the male animal found trespassing can prove to the satisfaction of the Court that the said animal had been enticed by the female animals of the same species belonging to the landowner, to commit such trespass, the said penalty shall not be recoverable.

**48. Destruction of stray pigs and poultry trespassing.**—The owner of any land on which any pigs or poultry are found trespassing may destroy such pigs or poultry without being liable for any claim for compensation by the owner thereof. If it is known who the owner of such pigs or poultry is, the landowner shall notify the said owner to remove the carcass within twenty four hours; if the owner is unknown or neglects to remove the carcass within the said period, the landowner may deal therewith as he deems fit, and in addition he is entitled to recover by action in a competent Court any loss or damage suffered.

**49. Compensation for illegal impounding.**—A person bringing or sending any animal to the pound unlawfully or in an unlawful manner shall be guilty of an offence and, on conviction, be liable to the penalties hereinafter provided and the Court convicting any person under the provisions of this Section shall at the same time give judgement for the amount of loss or damage, if any, caused by reason of the illegal act of the person convicted.

**50. General penalty clause.**—A person who contravenes any of the provisions of this Ordinance for which no special penalty is provided, shall on conviction be liable to a fine not exceeding ten rand or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

[S. 50 amended by s. 28 of Ord. 9 of 1974.]

**51. Repeal.**—The Ordinance mentioned in the Schedule hereto is hereby repealed.

**52. Short title.**—This Ordinance shall be called the Pound Ordinance, 1952.

#### SCHEDULE

##### ORDINANCES REPEALED

<i>No. and Year</i>	<i>Title</i>
5 of 1929.	Pound Consolidation Ordinance, 1929.
10 of 1930.	Pound Amendment Ordinance, 1930.
11 of 1931.	Pound Amendment Ordinance, 1931.
7 of 1934.	Pound Ordinance Amendment Ordinance, 1934.
10 of 1935.	Pound Ordinance Amendment Ordinance, 1935.

### **The Roads Ordinance 4 of 1968<sup>2</sup>**

2.24 In terms of section 13 of this ordinance, the Head of Department of Public Works, Roads and Transport of the Provincial Administration of the Free State may fence in or move or remove a fence alongside a public road provided that the width of a road thus fenced in shall not exceed the width prescribed for such road in the Ordinance.

2.25 Section 53 deals with animals on public roads and, *inter alia*, states:

- “(1) When an animal is on a public road, outspan, rest or road camp contrary to the provisions of this Ordinance or the Road Traffic Act, 1989 (Act 29 of 1989), or trespasses thereon, a traffic officer, as defined in section 1 of the last-mentioned Act, or any other person authorised thereto by the responsible Member, may impound such animal in accordance with the provisions of the Pound Ordinance, 1952 (Ordinance 18 of 1952): Provided that the prohibition contained in section 19 of the last-mentioned Ordinance shall not apply in connection with the impounding of such animal.**
- (2) Notwithstanding anything to the contrary contained in any Ordinance, the owner of land situated within eight meters of a public road shall not be entitled to impound an animal trespassing on such land or to claim compensation for damages caused by such animal on such land unless the land is properly fenced in.”**

### **The provinces of Mpumalanga, Gauteng, Northern Province and North West: The Roads Ordinance 22 of 1957<sup>3</sup>**

2.26 In terms of section 71 of the Ordinance no person shall without the written consent of the Administrator, erect a fence, gate or motorgrid on or across a public road. The Administrator may grant such consent in his discretion and subject to such conditions as he may deem necessary and he may at any time withdraw such consent.

2.27 In accordance with section 72 of the Ordinance the Administration only accepts responsibility for the erection and maintenance of fences, gates, etc. necessitated by deviations and new roads.

<sup>2</sup> As amended by the Roads Ordinance Amendment Act 17 of 1998. The administration of the whole of this Ordinance has under Proclamation 113 of 1994, published in Government Gazette 15813 of 17 June 1994, been assigned to the Free State Province with effect from 17 June 1994. The provisions of the Free State Land Administration Act 1 of 1998 do not apply to any matter regulated in this Ordinance.

<sup>3</sup> The administration of the whole of this Ordinance has under Proclamation 114 of 1994, published in Government Gazette 15813, 17 June 1994, been assigned to the Province of Gauteng with effect from 17 June 1994.

**“Daar bestaan geen wetgewing, sover as wat ek kon vasstel, wat 'n boer verplig om die nasionale pad oor sy grond af te kamp nie. In die Transvaal kom so 'n plig alleen totstand waar die Administrateur in terme van art. 77 van die Padordinansie, 22 van 1957, optree.”**

- 3.22 In **S v Kasselman 1977 (3) SA 1064 (T)** the appellant was convicted of contravening section 125 (1) of the Road Traffic Ordinance No. 21 of 1966 (T) Section 125 (1) provides:

**“Subject to the provisions of sub-sec. (2), no person shall leave or allow any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich to be on any section of a public road where that section is fenced or in any other manner enclosed along, both sides, and no person shall leave such animal or ostrich in a place from where it may stray onto any such section of a public road.”**

- 3.23 In **Kasselman supra** at 1064 the court held that the effect of the use of the words “leave” and “allow” was to make applicable the **test of reasonableness**. Thus in order to find a conviction it must be shown that the farmer acted negligently. In terms of the Ordinance however the onus of disproving such negligence rests on the farmer.

- 3.24 In **Coreejes v Carnarvom Munisipaliteit en 'n ander 1964 (2) SA 454 (C)** the court held that where the owner of a farm erected a wire fence alongside a public road the duty vests in the owner of that fence to see that the fence is effective in so far as this can reasonably be achieved. Thus where the fence is damaged or broken and animals enter the road causing road accidents the owner of the fence is negligent and bears the liability for the damage caused. The owner has to take all reasonable steps to ensure that the fence serves the purpose for which it was erected. The court held further:

**“Doen hy dit nie, dan skep hy 'n wanindruk by die publiek wat daardie pad gebruik; die publiek wat die pad gebruik en sien dat dit omhein is, is geregtig om aan te neem dat dit doeltreffend omhein is in soverre dit deur 'n redelike versigtige man gedoen sou word.”**

- 3.25 The court in **Coreejes supra** further considered that the factors which should be taken into account would change from time to time and place to place with regard to all the circumstances in the case, in particular the road, the area, where the collision

#### 4. CONCLUSIONS

- 4.1 A public road is fenced to protect users of the road as well as livestock. It is obviously not only stock-farmers who benefit from such a fence.
- 4.2 The person in control of a fence is ordinarily regarded as the person responsible for the maintenance of the fence.
- 4.3 It is important to remember that modern traffic conditions, the customs and habits of the country, the expectations and perceptions of the modern motorist, the motorist's knowledge of prevailing farming conditions and modern considerations of policy may well have changed dramatically since 1935.
- 4.4 The common law raises the question whether a legal duty to erect a fence should in fact be established by circumstances (location, farming activity, whether a danger is created etc) which would dictate that a farmer should clearly be obliged to ensure that his activities do not create a new danger or source of danger.<sup>12</sup>

Would this require legislation and if so, does it have to be uniform legislation throughout the country or should the substance of the legislation be dictated by regional considerations?

- 4.5 In **Botes v Van Deventer 1966 (3) SA 182 (A)** the defendant submitted that the owner of the farm (plaintiff) could have fenced the road, thereby protecting both his horses and users of the public road. In dealing with this contention, Van Blerk JA remarked as follows at 189H:

**“Of dit redelikerwys van eiser verwag kon word om enigteen van die hierbo genoemde stappe te neem hang af van die besondere omstandighede van die geval. Eiser het verduidelik dat hy nie die perde snags in een van sy ander kampe kon jaag nie want die ander kampe was kaal gewei, en as die swaardragtige merries na 'n kaal geweide kamp verskuif word sal dit, soos hy dit uitdruk, 100 persent nadelig wees vir die diere. Wat die afkamping van die pad betref sou dit 'n onbegonne taak wees om dit aan te durf vanweë al die draaie en hoeke in die pad. Wat meer is, 'n verlegging en herbelyning van die pad was destyds al 'n uitgemaakte saak. Nie alleen sou 'n afkamping van die pad vanweë die onkoste verbonde daaraan nie redelikerwys van eiser**

<sup>12</sup> In **Rabie v Kimberley Munisipaliteit 1991 (4) SA 243 (NC)** the local authority by its failure to properly investigate problems in a traffic light system, was held to have created a dangerous situation for road users, resulting in an accident and responsibility for damages to a vehicle.

**PUBLISHED IN FREE STATE PROVINCIAL GAZETTE NO. 82 OF 9 DECEMBER 2011**

**PROVINCIAL NOTICE**

[NO. 192 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:  
PUBLICATION: STANDARD IMPOUNDMENT OF ANIMALS BY-LAW**

I, MG Qabathe, member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Structures Act, 2000 (Act No. 32 of 2008), make standard by-laws as set out in the Schedule.

**SCHEDULE**

**IMPOUNDMENT OF ANIMALS BY-LAW**

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**Definitions**

1. In this by-law, unless the context otherwise indicates -  
"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;  
"cattle" means bulls, cows, oxen, heifers, steers and calves;  
"goat" means an adult male or female goat, a wether and a kid;  
"horse" means a stallion, mare, gelding, colt, filly, donkey and mule;

**"municipality"** means the Local Municipality of .....established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;  
**"occupier"** means any person in actual occupation of land or entitled as owner to occupy land;  
**"owner"**, in relation to an animal, includes any person having possession, charge, custody of control of such animal;  
**"pound"** means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;  
**"pound master"** means a person who may be -  
(a) a part-time or full-time employee of a municipality, or  
(b) appointed under a service delivery agreement to keep and operate a pound;  
**"proprietor"** means any owner, lessee, or occupier of land;  
**"sheep"** means a ram, an ewe, a wether and a lamb;  
**"stallion"** means a male horse, donkey or mule not castrated or partially castrated; **"veterinary surgeon"** means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982).

**Purpose of by-law**

2. The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

**Impoundment**

3. Any person may impound an animal found abandoned upon his or her property or any street, road, road reserve or other public place.

**Pound to which animals are to be sent**

4. Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

**Receiving of animals by pound master**

5. (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.  
(2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

**Receipt for impounded animals**

6. A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

**Number of enclosures**

7. The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for:  
(a) ostriches and horses;  
(b) cattle;  
(c) sheep, goats and pigs;  
(d) dogs; and  
(e) cats,  
Provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

**Destruction of dangerous or contagious animals**

8. (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.

- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

#### **Notice of impounded animals**

9. (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 2002 (Act No. 6 of 2002), is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police office.

#### **Keeping of pound register**

10. (1) A pound master must keep a pound register with the following particulars:
- (a) the date when, and the cause for which, all animals received by him or her are impounded;
  - (b) the number and description of such animals;
  - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner, if known;
  - (d) the date and particulars of the release or sale of the animals, as the case may be; and
  - (e) any other matters which he or she may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information. Provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death or injury of any impounded animal, the pound master must enter in his or her pound register a description of such animal and the cause of its death or injury.

#### **Inspection of and extracts from pound register**

11. A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

#### **Submission of pound register entries after pound sales**

12. A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

#### **Inspection of pound register at place of sale**

13. Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

#### **Pound master's fees**

14. (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the fees determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

#### **Fees payable**

15. (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.

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- (3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
- (4) If the pound master is an official of the municipality, he or she must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

#### Notice of sale

16. (1) Every pound master must -
- (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
  - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
  - (c) post a copy of the notice at a conspicuous place at the pound, there to remain until the day of the sale; and
  - (d) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality must make good the deficiency.

#### Auctioneer

17. (1) Every sale of impounded stock must -
- (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
  - (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

#### Sale of animals

18. At every such sale-
- (a) no animal may be put up for sale unless impounded for at least two weeks;
  - (b) all animals, except sheep and goats must be sold individually;
  - (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
  - (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -
    - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
    - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
  - (e) the municipality may fix a reserve price for any animal offered for sale; and
  - (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

#### Illegal impounding and penalties

19. Any person who illegally impounds any animal commits an offence.

#### Recovery of loss in respect of impoundment of animals from area of another municipality

R84 Per Cattle

20. Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

**Use, detention and ill-treatment of animals**

21. No person may furiously drive or ill-treat any animal found trespassing.

**Appeal**

22. A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

**Offences and penalties**

23. Any person who -
- (a) contravenes or fails to comply with a provision of this by-law;
  - (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
  - (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to -
    - (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
    - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
    - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**Repeal of by-laws**

24. Any by-laws relating to impoundment of animals adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

**Short title**

25. This by-law shall be known as the Impoundment of Animals By-law, 2011.

Trespass.	R1500 (Damage)
R 30,000	R244
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R44,000	R105
R 35,000	<hr/>