



MONTSERRAT

CHAPTER 9.05

ANIMALS (TRESPASS AND POUND) ACT

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

ANIMALS (TRESPASS AND POUND) ACT

Act 12 of 1985 .. in force 1 August 1985 (S.R.O. 26/1985)

Amended by Acts: 3 of 1993

10 of 1999

9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

Amended by S.R.O. 13/2013 .. in force 1 April 2013

Page

3



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Page

3

CHAPTER 9.05

ANIMALS (TRESPASS AND POUND) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Straying or improperly tethered animals
4. Animal trespassing on private land
5. Animals found roaming on mountain slopes to be deemed abandoned
6. Assistance in controlling a captured animal
7. Straying or trespassing animal on public road or place
8. Appointment of pounds and keepers
9. Duties of pound keepers
10. Sale of animal not redeemed
11. Provisions relating to diseased animals
12. Appointment of animal wardens
13. Sheep, goats, swine and poultry trespassing
14. Wild cattle
15. Claiming of carcass by owner
16. Offences and penalties
17. Animals which can be kept in town
18. Cattle to be tagged
19. The Director of Agriculture to keep register
20. Power to make regulations
21. Schedule

SCHEDULE: Pound Fees

CHAPTER 9.05

ANIMALS (TRESPASS AND POUND) ACT

(Acts 12 of 1985, 3 of 1993, 10 of 1999 and 9 of 2011 and S.R.O. 13/2013)

AN ACT TO MAKE PROVISIONS RESPECTING STRAYING AND TRESPASSING ANIMALS AND POULTRY FOR THE IMPOUNDING AND DISPOSAL OF THE SAME, AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

Commencement

[1 August 1985]

Short title

1. This Act may be cited as the Animals (Trespass and Pound) Act.

Interpretation

2. (1) In this Act—

“**abattoir**” means a place designated by the Director of Agriculture to be a place at which animals may be slaughtered;

“**animal pound**” means an area designated as such under section 8;

“**animal warden**” means a person appointed as such under section 12;

“**animal**” means a horse, mule, ass, swine, goat or sheep and includes any animal of the bovine species irrespective of age and sex and by whatever local or technical name it may be known;

“**cattle**” means an animal of the bovine species;

“**impound**” means to take an animal into custody in an animal pound;

“**Minister**” means the Minister responsible for agriculture;

“**pound fee**” means the fee payable to the keeper of an animal pound as set out in the Schedule or as prescribed under section 20;

“**pound keeper**” means a person appointed as such under section 8;

“**proprietor**”, in relation to land, includes a tenant or occupier and any person for the time being in charge of land;

“**public road**” or “**public place**” means a street, road, thorough-fare or place upon which the public habitually pass or gather, whether by right or custom;

“**redeem**”, in relation to an impounded animal, means payment of the fee for release of the animal from an animal pound as set out in the Schedule or as prescribed under section 20;

“**straying**”, in relation to an animal, means at large, or on a public road or in a public place and not accompanied by its owner or person responsible to the owner;

“**tag**” means any form of attachment to the body of the animal and includes any mechanical, surgical or electronic attachment;

“**tether**”, when used as a noun, means a rope, chain or other fastening by means of which an animal may be secured to a tree stake or like fixture, so as to confine it to a particular area the fastening being long enough to enable the animal if it escapes to be captured by a reasonably active person, but the rope, chain or other fastening shall not be less than eight feet for small animals and twenty feet for cattle, horses and donkeys;

“**tether**”, when used as a verb, means to secure by means of a tether;

“**township of Plymouth**” means the town of Plymouth which for the purposes of this Act shall be limited as follows—

North by the Southern boundary of Dagenham Estate, South by the southern boundary of Fort Barrington thence along the public road to the Cross Roads where the said road joins the public road leading to Amersham Estate East from the said Cross Roads in a direct line to the most northern Point of the premises in George Street known as the Cottage; West by the sea.

(Amended by Acts 3 of 1993 and 10 of 1999)

Straying or improperly tethered animals

3. (1) An animal found straying may be captured by any person who shall forthwith take or cause to be taken such animal to the animal pound.

(2) An animal found tethered—

(a) on a public road or public place; or

(b) within such a distance of a public road or public place as to be able to obstruct the same,

shall be untethered by any police officer or animal warden, who shall forthwith take such animal to an animal pound.

(3) A person who allows an animal to roam about other than within the confines of a secured fence shall be guilty of an offence and liable on summary conviction to a fine of \$1,000. *(Inserted by Act 3 of 1993)*

Animal trespassing on private land

4. (1) An animal found trespassing on private land may be captured by the proprietor of such land or by any other person at his request and tethered on the land for a period of twenty four hours. The person tethering an animal shall inform the Police or the pound keeper or the Director of Agriculture of such tethering. *(Substituted by Act 3 of 1993)*

(2) If within twenty-four hours of its capture under subsection (1) the owner of an animal pays, or causes to be paid to the proprietor an amount equal to the pound fee payable to a pound keeper in respect of that animal the proprietor shall deliver up the animal to the owner thereof or to the person responsible to the owner. *(Substituted by Act 3 of 1993)*

(3) An animal found on any land, private or public, may be captured by the animal warden without the permission from the proprietor of the land if the animal warden is of the opinion that the animal is unrestrained.

For the purpose of this subsection, “**unrestrained**” means not tethered or movement not contained or not restricted by a surrounding secured fence.

(Inserted by Act 3 of 1993)

(4) If within twenty four hours of its capture under subsection (1) an animal has not been delivered to its owner or a person responsible to the owner, the proprietor shall take the animal to an animal pound.

(5) A person who assists a proprietor to capture an animal, or takes a proprietor to capture an animal, under subsection (1), or who assists a proprietor to take an animal to an animal pound under subsection (4), shall be in the same position in relation to respective liabilities and entitlement to payment as a person who assists in controlling an animal under section 6.

Animals found roaming on mountain slopes to be deemed abandoned

5. (1) Notwithstanding anything in any other law, animals found roaming in mountain slopes shall be deemed abandoned by their owner and the Director of Agriculture may order—

(a) that the animals be culled and sold by public auction or slaughtered and the meats sold; or

(b) that the animals be shot and the meat sold.

(2) The proceeds of sale of the animals or the sale of the meat as the case may be shall be deposited to the revenue of the Government.

(3) For the purpose of this section, “**mountain slopes**” means—

(a) an area within three hundred yards of a spring; and

(b) an area declared as a forest reserve, a protected forest, a conservation area or a national park under the laws of Montserrat.

(Inserted by Act 3 of 1993)

Assistance in controlling a captured animal

6. (1) A person endeavouring to take an animal to an animal pound under this Act may call on any other person to assist in controlling such animal provided that, the owner of such animal shall be liable in damages both to the person taking, and to the person assisting in taking, the animal to the pound.

(2) Subject to subsection (4), a person called on to assist another person in controlling an animal under subsection (1) is not obliged to do so, but if he does is entitled to an equal share in any reward receivable by the person controlling the animal, together with any other person who may assist as aforesaid.

(3) No person shall purport to assist another in controlling an animal under subsection (1) unless expressly asked to do so, and if he does assist without having been expressly asked to do so, is not entitled to a share of any reward receivable.

(4) A police officer or animal warden called on to assist another person in controlling an animal under subsection (1) is obliged to do so and is not entitled to retain a share of any reward receivable by such person. The Commissioner of Police and the Minister respectively shall give directions as to the disposal of the share of any reward receivable by a police constable or animal warden who takes or assists in taking an animal to an animal pound.

Straying or trespassing animal on public road or place

7. (1) An animal, other than those included in section 13, which is found straying on a public road or public place or trespassing on private land may be shot or killed by the animal warden or a police officer or shot and killed by any person on the orders of the Director of Agriculture.

(2) An animal shot or killed under this section shall be taken to the abattoir and the owner of the animal is entitled to delivery of the carcass of the animal at the abattoir after the payment of the cost of removing the carcass to the abattoir and all other expenses related thereto.

(3) If no owner be known or if the carcass be not claimed within twenty four hours it is deemed public property and shall be sold to a registered butcher and the proceeds, less transport and slaughtering fees, shall be paid into revenue.

(Substituted by Act 3 of 1993)

Appointment of pounds and keepers

8. (1) The Governor acting on the advice of Cabinet may designate one or more areas of land, whether public or private, as an animal pound.
(Amended by Act 9 of 2011)

(2) The Director of Agriculture may appoint a person as keeper of an animal pound.

(Substituted by Act 10 of 1999)

Duties of pound keepers

9. (1) It shall be the duty of every pound keeper—

- (a) to keep the animal pound clean and in good order and repair, with secure fences or walls, a secure gate, sufficient shelter, and provisions for feeding and watering animals therein;

- (b) at any reasonable time and subject to sections 11 and 16(1)(g), to receive and impound any animal brought to the animal pound by any person in exercise of the powers set out in sections 3 and 4 and to mark the animal by means of a mechanical, surgical or electronic attachment with a distinctive number for purposes of identification of the animal. (*Inserted by Act 10 of 1999*)
- (c) to pay to a person lawfully bringing an animal to the pound and any reward set out in the Schedule or prescribed under section 20;
- (d) to permit the Chief Veterinary Officer, an animal warden, a police officer or the Director of Agriculture to inspect the animal pound and relevant books and records at all reasonable hours, or at any time on written notice;
- (e) to keep a register in which he shall enter—
 - (i) the names of persons bringing animals to the animal pound and any persons lawfully assisting;
 - (ii) the date and the alleged reason for the animal being brought;
 - (iii) a description of the animal and the name of its owner if known and the distinctive identification number of the tag he has attached to the body of the animal as required by paragraph (b); (*Amended by Act 10 of 1999*)
 - (iv) the amount of any reward paid to the person bringing the animal and any person lawfully assisting;
 - (v) the name of the person if any who redeems the animal, and the date of redemption;
 - (vi) the fee paid by the person redeeming an animal, and any charges paid by him for food and water for the animal;
 - (vii) the expenses of and proceeds of sale of any animal not redeemed by its owner;
- (f) to keep all animals impounded by him fed and watered sufficiently;
- (g) to report to the Director of Agriculture or other officer any signs of disease among impounded animals or animals brought to the pound, in accordance with section 11(1) and (2);
- (h) at all reasonable hours to permit the owner of an impounded animal or a person responsible to the owner to inspect the animal and the register entry relating to that animal;

- (i) as soon as is reasonably practicable after the impounding of an animal to post upon a board designed for such purpose notice of the animal impounded; and
- (j) to collect from the person redeeming an animal the pound fees set out in the Schedule or prescribed under section 20.

(2) A pound keeper who fails to comply with any of the requirements of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of \$200 or to imprisonment for six months or to both such fine and imprisonment.

(3) Any pound keeper who—

- (a) makes any false entry in the register required to be kept by subsection (1)(e);
- (b) asks or receives of any person fees other than those set out in the Schedule or prescribed under section 20; or
- (c) bribes or attempts to bribe any person to bring any animal to the pound of which he is the keeper,

is guilty of an offence and liable on summary conviction to a fine of \$500 or to imprisonment for twelve months or to both such fine and imprisonment.

Sale of animal not redeemed

10. (1) If an animal impounded under this Act is not redeemed within seventy two hours after being impounded, the animal becomes the property of the Crown.

(2) If an animal becomes the property of the Crown by virtue of subsection (1), the pound keeper shall immediately inform the Director of Agriculture who shall—

- (a) pay any costs involved in taking the animal, and any compensation payable to a person who has suffered loss or damage caused by the animal; and
- (b) take possession of the animal:

Provided that, any compensation payable hereunder shall not in any event exceed the proceeds realised upon the sale of the said animal less any costs paid to the pound keeper.

(3) The Director may, upon taking possession of an animal under subsection (2), dispose of it in any one of the following ways—

- (a) sell the live animal by public auction;
- (b) slaughter and sell the carcass;
- (c) donate the animal or its carcass to a charitable organization;
- (d) sell and export the live animal,

and shall in any event account for any monies so received to the Ministry of Finance.

(4) The Director may, acting on the advice of the Chief Veterinary Officer that the animal is in such a state or condition that its meat will be unfit for human consumption, order the animal to be shot and the carcass burned.

(Substituted by Act 10 of 1999)

Provisions relating to diseased animals

11. (1) A pound keeper shall not impound an animal which appears to him to be suffering from an infectious or contagious disease, but shall take the animal into custody in some separate place and forthwith communicate the fact to the Chief Veterinary Officer, the Director of Agriculture, a police constable or an animal warden, and await the directions of the Director of Agriculture.

(2) If at any time after being impounded an animal appears to the pound keeper to be suffering from an infectious or contagious disease, the pound keeper shall notify the Chief Veterinary Officer, the Director of Agriculture, a police officer or an animal warden and await the directions of the Director of Agriculture.

(3) The Director of Agriculture may, after consultation with the Chief Veterinary Officer—

- (a) order an animal warden to shoot or otherwise destroy an animal that is found under subsection (1) or (2) to be suffering from an infectious or contagious disease; and
- (b) give directions as to the payment of rewards and fees and the disposal of the carcass of the animal without compensation to the owner.

Appointment of animal wardens

12. (1) The Governor acting on the advice of Cabinet may by notice in writing appoint one or more persons to be animal wardens for the purposes of this Act, and may assign areas of operation for such wardens. *(Amended by Act 9 of 2011)*

(2) An animal warden may only shoot an animal under this Act if, at the time of shooting the animal, the warden is in possession of a valid firearm licence issued under the Firearms Act.

(3) The Director of Agriculture may delegate in writing all or any of his powers under this Act to one or more animal wardens.

Sheep, goats, swine and poultry trespassing

13. (1) It shall be lawful for—

- (a) the proprietor of any land to shoot or kill by other means without causing unnecessary suffering any sheep, goat, swine or poultry which are found trespassing upon the proprietor's land;
- (b) the police, animal warden or any other qualified person authorised by the Director of Agriculture to shoot or kill by any other means without unnecessary suffering any sheep, goat, swine or poultry which are found straying.

(2) The proprietor of land where an animal is shot or otherwise killed shall, within two hours of it being shot or killed, remove the carcass of the animal to an abattoir and inform the police or the Director of Agriculture of the shooting or killing of the animal.

(3) If the owner of an animal referred to in subsection (2) does not claim the carcass of the animal within twenty four hours of it arriving at the abattoir, the carcass is deemed to have been abandoned, and the Director of Agriculture shall cause it to be sold and the proceeds deposited to revenue, after reimbursing any expenditure and paying compensation to any person who has suffered loss or damage caused by the animal.

(Substituted by Act 3 of 1993 and amended by Act 10 of 1999)

Wild Cattle

14. (1) If any damage is caused on any land by the trespass of cattle which by reason of their wildness or being untethered cannot be impounded, the Director of Agriculture or an officer authorised by the Director may, upon application of the proprietor, or the agent of the proprietor, of the land on which the damage is caused, permit the applicant or other qualified person to shoot or otherwise kill the cattle while in the act of trespassing. *(Substituted by Act 10 of 1999)*

(2) The proprietor of land where cattle is shot or otherwise killed shall, within two hours of it being shot or killed, remove the carcass of the cattle to an abattoir and inform the police or the Director of Agriculture of the shooting or killing of the cattle.

(3) If the owner of cattle referred to in subsection (2) does not claim the carcass of the cattle within twenty four hours of it arriving at the abattoir, the carcass is deemed to have been abandoned, and the Director of Agriculture shall cause it to be sold and the proceeds deposited to revenue, after reimbursing any expenditure.

(Substituted by Act 3 of 1993 and amended by Act 10 of 1999)

Claiming of carcass by owner

15. If the owner of an animal that is removed to an abattoir under section 13 or 14 claims the carcass of the animal within three hours after it arrives at the abattoir, the owner is entitled to delivery of the carcass after payment of the cost of removing the carcass to the abattoir and all other expenditure and any compensation for damage caused by the animal.

(Substituted by Act 10 of 1999)

Offences and penalties

16. (1) Without prejudice to section 9 the following acts shall be offences against this Act—

- (a) being the owner of an animal or poultry and causing or permitting it or them to stray on a public road or public place or private land;
- (b) tethering an animal in such a position that it can obstruct a public road or public place except in an emergency;
- (c) untethering an animal from a fixture without the consent of the owner save under section 3(2) or 4(3) except while the animal is impounded, or in an emergency, or if the animal is trespassing, for the purpose of transporting it to the pound;
- (d) untying or releasing a tether from the neck or other part of an animal without the consent of the owner, except where the animal is impounded or in an emergency;
- (e) being an owner of an animal which was impounded and given a distinctive identification number tag and thereafter redeemed, to remove the said tag;
- (f) hiring out or employing for a person's own use an animal which that person has in his custody under this Act;
- (g) impounding, capturing for the purpose of impounding or shooting or killing any animal without the authority of this Act or of a person acting in accordance with this Act;
- (h) rescuing or attempting to rescue any animal impounded or while being impounded under the authority of this Act or which has been captured and tethered by the owner of private land on which the animal was found trespassing;
- (i) keeping within the town of Plymouth animals or poultry in excess of the quantity permitted under section 17.

(Amended by Act 10 of 1999)

(2) A person convicted of any of the offences set out in subsection (1) is liable on summary conviction to a fine of \$1,000 or imprisonment for three months or for both such fine and imprisonment for the first conviction, and on any subsequent conviction to a fine of \$2,000 or imprisonment for six months or to both such fine and imprisonment.
(Substituted by Act 3 of 1993)

(3) Upon convicting any person of an offence under subsection (1)(h), the Magistrate may order the payment of compensation to the owner of the animal by the person convicted and may also order payment by the owner of expenses reasonably and actually incurred by any other person in keeping the animal.

(4) Upon convicting any person of an offence under subsection (1)(i) the Magistrate may order the payment by the person convicted of a sum equivalent to any reward or pound fees which any other person or persons would but for the offence have received for the impounding of the animal to such other person or persons.

(5) (a) Where an animal is impounded a second time within a six month period the owner is liable to pay a sum equal to twice the pound fee, and where the same animal is impounded a third time within the same six month period the owner is liable to pay a sum equal to four times the pound fee payable in respect of that animal.

(b) If an animal is impounded for a fourth time within a six month period the animal shall be forfeited to the Crown:

Provided that, the forfeiture of the animal under paragraph (b) shall not have the effect of exempting the owner from any other liability under this section.

(c) The abandonment of an animal by its owner shall not exempt the owner from any liability under this Act.

Animals which can be kept in town

17. No animal or poultry shall be depastured or kept within the town of Plymouth:

Provided that, this prohibition shall not apply to—

- (a) any animal being transported to the abattoir for slaughter;
- (b) any animal brought into the township for sale;
- (c) any animal being used for transport;
- (d) poultry and rabbits not exceeding a total of thirty in number in respect of one household; or
- (e) goats and sheep not exceeding a total of twelve in number in respect of one household.

Notwithstanding anything in this section, the Governor acting on the advice of Cabinet may permit a person within the town of Plymouth to carry on the business of poultry rearing and, subject to such conditions as may be specified, permit the person to rear poultry in excess of the quantity set out in paragraph (d).

(Amended by Act 9 of 2011)

Cattle to be tagged

18. (1) A person who keeps cattle shall be required to have a numbered identification tag in respect of each cattle.

(2) A tag required under subsection (1) shall be issued by the Director of Agriculture on application by the owner of the cattle.

(3) The owner of cattle shall attach the identification tag provided under subsection (2) to the ear of each cattle and the tag shall be worn at all times.

(4) An owner who fails to comply with subsections (1) and (3) is guilty of an offence and on summary conviction is liable to a fine of \$500 or to a sentence of imprisonment for three months.

The Director of Agriculture to keep register

19. The Director of Agriculture shall keep a register in which he shall enter—

- (a) the name, occupation and address of every owner of cattle to whom identification tags have been issued;
- (b) the number of cattle kept by the owner;
- (c) the numbers of the identification tags allocated to respective owners of cattle;
- (d) the dates on which the identification tags were issued; and
- (e) any other information which the Director shall request from the owner as being reasonably necessary for the execution of the Director's duties under this Act.

Power to make regulations

20. The Governor acting on the advice of Cabinet may make regulations prescribing—

- (a) the pound fees to be paid by or on behalf of any owner wishing to redeem an impounded animal;
- (b) the charges to be paid to a pound keeper by the owner of an animal for feeding and watering an impounded animal;
- (c) the reward to be paid to any person lawfully taking an animal to an animal pound;
- (d) the proportion of pound fees which may be retained by the pound keeper and the disposal of the balance;
- (e) the payment of additional fees to the pound keeper or others where the animal pound is on private land;
- (f) generally for all such matters as may from time to time be deemed expedient for rendering this Act effective.

(Amended by Act 9 of 2011)

Schedule

21. (1) Unless changed by regulations made by the Governor acting on the advice of Cabinet under section 20, the fees, charges and rewards set

out in the Schedule shall be those payable in respect of the several matters therein specified.

(Amended by Act 9 of 2011)

(2) The Governor acting on the advice of Cabinet may, by order subject to negative resolution, amend the Schedule.

SCHEDULE

(Section 21)

POUND FEES

| | | | |
|----|---|-----------------------------------|----------------------------------|
| 1. | There shall be paid by or on behalf of the owner of an animal to a pound keeper for the release of an impounded animal one of the following | | |
| | <i>(a)</i> | Cow, calf, bull, heifer or steer— | |
| | | (i) | impounded without a tether \$250 |
| | | (ii) | impounded with a tether \$125 |
| | <i>(b)</i> | Horse, mare, gelding or foal— | |
| | | (i) | impounded without a tether \$150 |
| | | (ii) | impounded with a tether \$100 |
| | <i>(c)</i> | Mule or ass— | |
| | | (i) | impounded without a tether \$150 |
| | | (ii) | impounded with a tether \$100 |
| | <i>(d)</i> | Sheep— | |
| | | (i) | impounded without a tether \$75 |
| | | (ii) | impounded with a tether \$50 |
| | <i>(e)</i> | Goat— | |
| | | (i) | impounded without a tether \$75 |
| | | (ii) | impounded with a tether \$50 |

| | | | |
|----|---|----------------------|----------------------------|
| | <i>(f)</i> | Swine— | |
| | | <i>(i)</i> | impounded without a tether |
| | | <i>(ii)</i> | impounded with a tether |
| 2. | There shall be paid by or on behalf of the owner of an impounded animal to a pound keeper for feeding and watering of the animal the following charges per day or part of a day— | | |
| | <i>(a)</i> | Sheep, goat or swine | \$15 |
| | <i>(b)</i> | Any other animal | \$25 |
| 3. | <p>There shall be paid by the pound keeper to any person lawfully taking an animal to an animal pound a reward at the rate of one-third of the pound fee payable by the owner for release of the animal:</p> <p style="text-align: center;">Provided that the reward which would otherwise be payable to a constable or an animal warden shall be paid to the general revenue as the case may be.</p> | | |
| 4. | There shall be paid out of general revenue to the keeper of any animal pound a fee of \$100 per annum for maintenance of the pound. | | |
| 5. | Every pound keeper shall remit to the Director of Agriculture annually any sum in excess of \$3,600 taken in by him in pound fees, after payment of rewards. | | |

(Substituted by S.R.O. 13/2013)
