

**CHAPTER 36:05  
POUNDS**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Establishment of pounds
4. Appointment of officials
5. Abolition of pounds
6. Costs: payment of
7. Poundmaster's duty to receive animals
8. Receipt to be given
9. Separate kraals to be maintained
10. Poundmaster's duty to care for animals
11. Penalty for use of impounded animal
12. Details of death or injury of animals to be kept
13. Duty to destroy certain animals
14. Animals trespassing on poundmaster's property
15. Information to be given to owner of animal
16. Publication of fees, etc.
17. Pound-book
18. Pound-book to be open for inspection
19. Extracts of pound-book to District Commissioner
20. Offences in relation to pound-book
21. False entries in pound-book
22. Pound-book available at pound sales
23. Which pound is to be used
24. Animals which may be destroyed
25. Owner may recover animals before impounding on tender
26. Penalty for sale of impounded animal
27. Improper dealing with impounded animals
28. Improper rescue of animals seized
29. Fees for delivering animals to pound
30. Payment of trespass money or damages
31. Trespass on uncultivated ground
32. Double fees in certain cases
33. Detention of animals until trespass money paid
34. Sheep suffering from scab
35. Sheep or goats deemed to be infected with scab
36. Impounding of animals on outspan and aerodrome
37. Mileage and trespass money payable in respect of animals impounded
38. Fees receivable by poundmaster
39. Grazing fees
40. Certain animals to be kept apart
41. Retention of animals
42. Fees for attendance at pound sale
43. Alteration of tariffs
44. Amendment of Schedules
45. Sale of impounded stock
46. Advertisement of sale and notices
47. Copy of notices
48. Frequency of sales
49. Time of sale
50. When animals may not be sold

51. Procedure at sales
52. Terms of payment at sales
53. Special pound fees for bulls
54. Fees payable to Treasury
55. Compensation for damage done
56. Repayment of balance
57. Civil right of action for damage preserved
58. Special procedure relating to impounded donkeys
59. General offences
60. Fees when conflicting tariffs apply
61. Fees for molesting animals
62. Civil action for damages preserved
63. Recovery of penalties
64. General penalty
65. Imprisonment possible in all cases
66. Custody in pound of stolen animals
67. Act not to apply where Matimela Act applies
68. Finance when poundmaster is police officer
69. Limitation in respect of certain townships

First Schedule - Rates for Animals Going to the Pounds

Second Schedule - Trespass on Cultivated Rand

Third Schedule - Trespass on Uncultivated Rand

Fourth Schedule - Pound Fees

Fifth Schedule - Sustenance Fees

Sixth Schedule - Fees for Animals Herded Separately

Proc. 12, 1925,  
 Proc. 26, 1930,  
 Proc. 10, 1935,  
 Proc. 60, 1936,  
 Proc. 22, 1939,  
 Cap. 111, 1948,  
 Proc. 61, 1948,  
 Proc. 44, 1957,  
 G.N. 27, 1957,  
 Cap. 140, 1959,  
 G.N. 27, 1961,  
 Law 4, 1963,  
 HMC Order 1, 1963,  
 L.N. 84, 1966,  
 Act 24, 1968,  
 Act 12, 1970,  
 Act 41, 1977,  
 S.I. 124, 1984.

**An Act to establish pounds, and to provide for the reception and care of trespassing stock, and for matters incidental thereto.**

*[Date of Commencement: 17th April, 1925]*

**1. Short title**

This Act may be cited as the Pounds Act.

**2. Interpretation**

In this Act, unless the context otherwise requires-

**"AC brand"** means an AC brand as defined in the Branding of Cattle Act;

**"animals"** includes horses, mules, donkeys, cattle, sheep, goats, ostriches and pigs;

**"aerodrome"** means an area of land demarcated by visible beacons and used in connection with aviation in Botswana, provided such area has been fully described by the President in a notice published in the *Gazette*;

**"branded animal"** means any animal upon which any AC brand is imprinted and includes the unweaned young of any animal upon which any such brand is imprinted;

**"flock"** means any number of sheep or goats more than one, which are in one lot, or under the charge of one person;

**"proprietor"** includes any owner, lessee or occupier of land, and includes the principal chief or headman of any tribal territory, or any person authorized to act on his behalf;

**"owner"**, in relation to any animals, includes any agent of the owner, and any person being in charge or control of the animals on behalf of the owner;

**"sufficient fence"** means any wall, fence or barrier at least 1,35 m high, through which no animal could pass without breaking;

**"police officer"** means any superintendent, assistant superintendent, inspector or sub-inspector of the Botswana Police Force.

### **3. Establishment of pounds**

The District Commissioner of any district, with the approval of the President, shall establish therein such pounds as may be deemed necessary and appoint and dismiss poundmasters.

### **4. Appointment of officials**

The District Commissioner of any district, with the approval of the President, may appoint any subordinate officer of the Botswana Police Force to be poundmaster, subject to the provisions of section 68.

### **5. Abolition of pounds**

The District Commissioner of any district, with the approval of the President, may abolish any pound therein which he deems inexpedient to continue.

### **6. Costs: payment of**

The costs of publishing the pound notice and other notices in connection with pounds shall be paid from the general revenue of the Government.

### **7. Poundmaster's duty to receive animals**

(1) Every poundmaster shall receive into his charge all animals tendered at his pound between sunrise and sunset by any proprietor or by the caretaker for any proprietor, or by any person authorized in writing thereto by such proprietor or caretaker, in order to be impounded as having been found trespassing upon the land of such proprietor.

(2) Any poundmaster who refuses or neglects to receive animals tendered as aforesaid shall be guilty of an offence and liable to a fine not exceeding P10, and shall in addition, be liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or neglect.

(3) Any animal sent to the pound which is suffering from any contagious disease shall be kept separate from all other animals, and the poundmaster shall cause it to be destroyed under the provisions of section 13.

### **8. Receipt to be given**

Every poundmaster shall give to every person delivering animals into his charge a written receipt setting forth the number and description of the animals so delivered, and specifying the trespass for which the said animals are reported to be impounded.

### **9. Separate kraals to be maintained**

Every poundmaster shall maintain in good repair, and as far as possible free from all infection, not less than three separate kraals or enclosures-one for ostriches and horses, one for cattle,

and one for sheep, goats and pigs:

Provided that the District Commissioner of any district, with the approval of the President, may give permission to the poundmaster of any pound within his district to maintain a lesser number of such enclosures.

#### **10. Poundmaster's duty to care for animals**

Every poundmaster shall take proper care of any animal impounded, and shall be responsible to the owner of any such animal for any damage or injury sustained by reason of any neglect or default on the part of himself or any person acting for him or on his behalf, where necessary the poundmaster may cause to be branded with a distinctive brand any animal impounded.

#### **11. Penalty for use of impounded animal**

Any poundmaster who rides or otherwise works or uses any impounded animal shall be guilty of an offence and liable to a fine not exceeding P10.

#### **12. Details of death or injury of animals to be kept**

In case of the death or injury of any impounded animal, the poundmaster shall enter in his pound-book a description of such animal and the cause of its death or injury; and the absence of any such entry, or its falsity in any material respect, shall be held to be *prima facie* proof of the fact that the death or injury in question was due to the default of the poundmaster.

#### **13. Duty to destroy certain animals**

(1) It shall be lawful for every poundmaster to destroy, subject to the provisions of this section, any impounded animal suffering from a contagious disease, or likely to prove dangerous to human life, or destructive to other animals impounded.

(2) No such animal shall be destroyed until a justice of the peace, a police officer, or two disinterested landowners have examined it and agree with the poundmaster as to the necessity for its destruction.

(3) The poundmaster shall summon the owner of such animal, if known, to attend the examination and the summons for the examination may be by letter duly sent through the post.

(4) If the owner of the animal objects forthwith to its destruction, the poundmaster may release it, in which case the poundmaster may at the same time release all other animals belonging to the owner which may have been impounded on the same occasion as the animal proposed to be destroyed.

(5) If any branded animal is destroyed under this section without the knowledge of the owner, the poundmaster shall give written notice of such destruction to the proprietor of every AC brand imprinted on such animal.

(6) If any animal subject to a charge under the Agricultural Charges Act or to hypothecation under the Hypothecation Act, is destroyed under this section with the knowledge of the owner, such owner shall forthwith give written notice of such destruction to the National Development Bank or authorized creditor concerned, as the case may be.

(7) Every justice of the peace not in receipt of a salary from the general revenue of the Government, or landowner attending for the purpose of the inspection aforesaid, shall be paid by the poundmaster the sum of 75 thebe for every day or portion of a day exceeding four hours during which he was necessarily absent from his home for the purpose of such inspection, together with travelling expenses as follows, namely-

- (a) if the journey can conveniently be made by rail, the actual cost of the railway ticket;
- (b) if the journey can conveniently be made partly by rail and partly by road, 15 thebe per hour in respect of the part of the journey undertaken otherwise than by rail in addition to the cost of the railway ticket;
- (c) in other cases, 15 thebe per hour necessarily spent in travelling.

(8) The amount so paid may be recovered by the poundmaster from the owner of the animal if it is destroyed; if the animal is not destroyed, or the owner is unknown, or if it is impossible to recover from the owner the whole or any part of such amount then the said

amount, or the portion of it unrecovered (as the case may be), shall be paid to the poundmaster from the general revenue of the Government.

(9) Nothing in this section shall apply to sheep or goats suffering merely from scab.

#### **14. Animals trespassing on poundmaster's property**

(1) No poundmaster who is in charge of a pound situated within a distance of 14,4 km from any other pound in the same district shall confine in his own pound any animals found trespassing upon property belonging to himself.

(2) He shall send any such animals to such other pound in the same district as may be nearest to his own pound by a practicable road or thoroughfare, and shall enter in his pound-book the number and description of the animals so sent.

(3) Any poundmaster contravening any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P20.

#### **15. Information to be given to owner of animal**

(1) Every poundmaster who knows the name of the owner of any animal impounded in his pound shall forthwith send through the post or otherwise a written notice addressed to such owner at his place of residence, informing him of the fact that the said animal has been impounded.

(2) If any branded animal is impounded the poundmaster shall forthwith give written notice of such impounding to the proprietor of every AC brand imprinted on such animal.

#### **16. Publication of fees, etc.**

Every poundmaster shall have and preserve at or near his pound a copy of this Act, which shall at all reasonable times be open for reference to the public, and shall erect and maintain at or near the pound a board upon which shall be printed, painted, or written in legible characters the rates of fees and damages fixed by the First, Second, Third, Fourth, Fifth and Sixth Schedules or such other rates as may be authorized in their place under section 43.

#### **17. Pound-book**

(1) Every poundmaster shall keep a pound-book in which the following particulars shall be legibly entered by him-

- (a) the date when, and the cause for which, all animals received by him are impounded;
- (b) the number and description of such animals, including particulars of any brand imprinted on such animals;
- (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;
- (d) the date and particulars of the release or sale of the animals, as the case may be;
- (e) the name and address of the proprietor of every brand recorded under paragraph (b); and
- (f) any other matters which he may be directed by the President to ascertain and record, and the particulars of any notice sent to him in terms of section 27.

(2) The said entries shall be made at the time when the acts in respect of which they are made were done, or so soon thereafter as possible, but not after any dispute concerning them has arisen.

(3) In regard to the forms in which entries in the pound-book are to be made, the poundmaster shall follow such directions as he may receive from the President.

#### **18. Pound-book to be open for inspection**

(1) Every pound-book shall be kept at the residence of the poundmaster, and shall at all reasonable times be open for the inspection of the District Commissioner of the district and of any member of the Botswana Police Force free of charge, and shall be similarly open to every other person upon payment of a fee of five thebe for each inspection.

(2) Every poundmaster shall grant extracts, signed by himself, from his pound-book to any person demanding the same upon payment of 10 thebe for every such extract not exceeding 100 words, and five thebe for every subsequent 100 or part of 100 words.

#### **19. Extracts of pound-book to District Commissioner**

Every poundmaster shall, within 14 days after the date of each pound sale, forward to the District Commissioner of the district a copy of all entries in the pound-book made since the date of the preceding transmission and the District Commissioner shall preserve a copy of all such entries in his office for the inspection of any person desirous of seeing them.

#### **20. Offences in relation to pound-book**

Every poundmaster who-

- (a) refuses to allow his pound-book or copy of this Act to be inspected by any person lawfully entitled to do so;
- (b) neglects in any respect to comply with the provisions of sections 45 to 50; or
- (c) neglects or refuses to forward to the District Commissioner of the district the copies of entries referred to in section 19,

shall be guilty of an offence and liable to a fine not exceeding P10.

#### **21. False entries in pound-book**

Every poundmaster who-

- (a) knowingly makes a false entry in his pound-book;
- (b) fraudulently destroys or erases any entry already made, or wilfully delivers to the District Commissioner a false copy or extract from his pound-book,

shall be guilty of an offence and liable to a fine not exceeding P100.

#### **22. Pound-book available at pound sales**

Every poundmaster shall take his pound-book with him to every sale of animals impounded in his pound, and such book shall be open at the place of sale, free of charge, to all persons desirous of inspecting it.

#### **23. Which pound is to be used**

Any proprietor upon whose land any animals are found trespassing may send such animals to that pound which is the nearest, by a practicable road or thoroughfare, to the land trespassed upon, and to no other.

#### **24. Animals which may be destroyed**

(1) All pigs, poultry, or pigeons found trespassing in or upon-

- (a) any garden, vineyard, or orchard;
- (b) any place upon which any species of cultivated crop is growing, or upon which such crop having been gathered is still lying; or
- (c) any place containing grain,

may be destroyed by the proprietor or any person acting on his authority.

(2) Any dog found trespassing between the 1st day of December and the 1st day of May in any vineyard or raisin floor, and doing damage therein, may be similarly destroyed.

(3) Any dog found trespassing at any time in a fenced camp or enclosed place in which there are game or animals may be destroyed; and the owner of any dog, or any person having a dog in his possession or under his control, shall be liable to make good any damage done by such dog to any game, ostriches, or animals in any fenced camp or enclosed place.

#### **25. Owner may recover animals before impounding on tender**

(1) The owner of any animals liable to be impounded for trespass may, before the animals have been removed from the property trespassed upon, tender to the proprietor thereof or his caretaker a sum of money to cover the damage suffered by him, or the trespass money lawfully claimable under this Act in connection with such trespass.

(2) If such animals are in the course of being conveyed to the pound, then their owner may make a similar tender and also a tender of the mileage to which the proprietor would be entitled under this Act if the animals had actually been impounded.

(3) Such tender may be made either to the proprietor or to his servant or agent charged with the duty of conveying the animals to the pound.

(4) If any tender is refused the proprietor by or on behalf of whom it was refused shall be



liable to pay the cost of any legal proceedings which he may thereafter institute in respect of the trespass, and shall be liable for any damages sustained by the owner of the animals by reason of their detention after the date of tender, unless the tender is found to be insufficient by a competent court, or unless, in the opinion of such court, the tender was refused by the proprietor or person in charge of the animals in the *bona fide* belief that the person making the tender was not the owner or the duly authorized agent of the owner.

#### **26. Penalty for sale of impounded animal**

Any proprietor who sells or disposes of any animal found trespassing upon his property shall be guilty of an offence and liable to a fine not exceeding P20, and in addition may be ordered by the court by which he is convicted to pay to the owner the value of such animal and any damage sustained by him by reason of its detention or sale.

#### **27. Improper dealing with impounded animals**

(1) No proprietor shall ride, work, or use any animal found trespassing upon his land, or detain such animal for any time longer than 24 hours, or shall knowingly allow any stray animal to remain upon his property for a period longer than two weeks, unless he has forwarded to the owner of the animal, if known to him, or to the nearest poundmaster, a notice of the presence of such animal upon his property.

(2) Such notice shall be sent by letter delivered or duly posted, and shall set forth, as nearly as possible, the species, marks, and distinguishing peculiarities of the animal in question, and in regard to horses and cattle their colour also.

(3) No person shall furiously drive, worry, or wantonly ill-treat any animal found trespassing, or conduct the same to the pound by any except the shortest available road or thoroughfare, unless some other road or thoroughfare is more suitable for that purpose, or send any number of animals found trespassing at the same time and place in separate lots to the pound with the object of obtaining additional mileage.

(4) Any person contravening this section shall be guilty of an offence and liable to a fine not exceeding P10, and may be ordered by the court by which he is convicted to make good to the owner of such animal or animals any damage sustained by reason of such contravention.

#### **28. Improper rescue of animals seized**

(1) No person shall rescue or incite or assist any other person to rescue, any animals lawfully impounded or lawfully seized for the purpose of being impounded.

(2) Any person contravening the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P20.

#### **29. Fees for delivering animals to pound**

(1) Every person who delivers any animal to a poundmaster to be impounded shall be entitled to receive from such poundmaster mileage at the rate set forth in the First Schedule.

(2) When the person so delivering animals is not himself the proprietor of the land trespassed upon, or the caretaker for the proprietor, he shall produce a written memorandum signed by such proprietor or caretaker, giving a description of the animals and authorizing the bearer to convey them to the pound, and every such memorandum shall be preserved by the poundmaster as a voucher.

(3) When more persons than one have been employed in conveying animals to the pound, mileage shall only be paid by the poundmaster to one of such persons; but the person impounding the animals may recover from the owner in any competent court similar mileage in respect of every other such person necessarily so employed:

Provided that when ostriches are impounded the poundmaster shall pay mileage for as many drivers as are in his opinion necessarily employed.

#### **30. Payment of trespass money or damages**

(1) The owner of any animal lawfully impounded for trespass upon-

- (a) any garden, vineyard, or orchard;
- (b) any place upon which a cultivated crop is growing, or upon which such a crop, having

been gathered, is still lying; or

(c) any yard, floor, or place containing grain or dried fruits, shall, subject to the provisions hereinafter contained, be liable to pay trespass money to the proprietor of the property trespassed upon, calculated according to the rates set forth in the Second Schedule.

(2) Any proprietor, or the caretaker for any proprietor, sending animals to the pound for a trespass under this section shall at the same time send a signed memorandum to the poundmaster setting forth the number and description of the animals and the nature of the place or property upon which they have trespassed.

(3) When the person impounding elects to claim damages calculated according to the Second Schedule, the memorandum shall state the amount so claimed.

(4) If he elects to proceed for damages by action at law, the memorandum shall state such election.

(5) If the memorandum delivered with the animals does not state the nature of the place or property upon which they have trespassed they shall be considered as impounded for trespass under the provisions of section 31.

(6) When animals to which this section applies are taken to the pound by the proprietor or caretaker in person, the verbal statement of such proprietor or caretaker upon the matters referred to in subsections (1), (2), (3), (4) and (5) shall be taken and recorded by the poundmaster.

### **31. Trespass on uncultivated ground**

The owner of any animals lawfully impounded for trespass upon any uncultivated ground or any place not falling within the provisions of section 30 shall be liable to pay trespass money to the proprietor of the property trespassed upon at the rate set forth in the Third Schedule.

### **32. Double fees in certain cases**

In case any property is trespassed upon twice within the space of 14 days by cattle or horses belonging to the same owner, the said owner shall be liable in respect of the second trespass to pay twice the rate prescribed in the Second or Third Schedules, as the case may be.

### **33. Detention of animals until trespass money paid**

(1) No poundmaster shall release any impounded animal until there has been paid to him, over and above all other fees and charges, the amount of all trespass moneys due and payable under either section 30, 31 or 32 or under sections 34 and 37 in respect of such animals.

(2) If any such animals are released without payment of the trespass money, the poundmaster shall be liable to pay such trespass money to the person entitled thereto.

### **34. Sheep suffering from scab**

(1) The owner of any sheep or goats infected with scab, and found trespassing upon any property, shall, if the said sheep or goats are not found mixed with other sheep or goats belonging to the proprietor, and free from the said disease, be liable to pay to the proprietor trespass money at twice the rate prescribed in the Second and Third Schedules.

(2) If the trespassing sheep or goats infected with scab are found mixed with those of the proprietor being free from the disease, the owner shall be liable to pay to the proprietor trespass money at four times the rate so prescribed.

(3) Any person who wilfully drives any sheep or goats infected with scab into or upon the property of another person, upon which property there are at the time any sheep or goats not infected with scab, shall, over and above any trespass money or damages payable under this Act or otherwise, be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding six months, or to both.

### **35. Sheep or goats deemed to be infected with scab**

For the purposes of this Act, if any sheep or goat found trespassing is infected with scab all sheep or goats in the same flock, and found trespassing at the same time, shall be deemed



to be similarly infected, and if any sheep or goat in any flock with which any other flock has become mixed is so infected, then the entire mixed flock shall be deemed to be similarly infected.

### **36. Impounding of animals on outspan and aerodrome**

Every administrative officer, police officer, justice of the peace and any other person authorized in writing by any of the said persons may impound any animals found-

- (a) upon any outspan place or vacant State land in any district, which are not in the possession of travellers who have outspanned for not more than 24 hours, or for any period during which they may be detained by stress of weather or other sufficient cause upon the outspan place; or
- (b) upon any aerodrome.

### **37. Mileage and trespass money payable in respect of animals impounded**

(1) All animals impounded under section 36 shall be sent to the same pound as would have been the case had the outspan or vacant State land or aerodrome been private property and they had trespassed thereon; and the same mileage and trespass money shall be payable in respect of them.

(2) The mileage shall be paid to the person taking the animals to the pound, and the trespass money shall be paid to the Treasury.

### **38. Fees receivable by poundmaster**

Every poundmaster shall be entitled to demand or retain (as the case may be) in respect of every animal impounded with him under this Act the fees enumerated in the Fourth Schedule, and no animal shall be considered to be impounded until it has been actually placed within the pound kraal.

### **39. Grazing fees**

Every poundmaster shall be entitled, over and above the fees mentioned in section 38, to demand or retain (as the case may be) a further fee for every day during which any such animals are herded, grazed, and fed by him, as prescribed in the Fifth Schedule.

### **40. Certain animals to be kept apart**

Every stallion or bull above the age of two years, every sheep ram, goat ram, or boar above the age of nine months, and every animal which, from contagious disease, dangerous vice, or other reason, is unfit to run with other animals, shall be kept and fed separately; and the fees to be received or retained (as the case may be) by the poundmaster for the keeping and feeding of such animal shall be those prescribed in the Fifth Schedule.

### **41. Retention of animals**

(1) The fees mentioned in sections 38, 39 and 40 shall be paid to the poundmaster for his own use by the owner of the animals impounded; and, together with any sum paid by the poundmaster by way of mileage in terms of this Act, shall be a charge upon such animals; and such animals may be detained by the poundmaster as security of the said fees and mileage.

(2) If the value of any animals belonging to the same owner impounded together is in excess of the total charges due in respect thereof under this Act and if the owner is unable to pay the said charges, the poundmaster shall detain so many of the animals as may be reasonably sufficient to secure the total charges due in respect of all the animals, and shall deliver the remainder of the animals to the owner.

(3) Any poundmaster who retains, after demand, any greater number of such animals than is reasonably necessary to secure such charges as aforesaid, shall be liable to the owner thereof for any damages sustained by him on account of such retention.

### **42. Fees for attendance at pound sale**

(1) Subject to the provisions of section 68, every poundmaster shall, for his attendance at every pound sale, as hereinafter provided, be allowed a fee of P1, to be paid proportionately out of the proceeds of the animals sold at such sale.

(2) If such proceeds are insufficient, then the Accountant-General shall pay to the

poundmaster such amount as, together with the sum received by him from the proceeds, shall amount to P1.

#### **43. Alteration of tariffs**

The President may, by order published in the *Gazette*, alter the tariff of fees and rates fixed in any of the First, Second, Third, Fourth, Fifth and Sixth Schedules in respect of any pound situated in any district.

#### **44. Amendment of Schedules**

Every alteration to or amendment of any of the Schedules referred to in section 43, when published in the *Gazette*, shall have the same force and effect as if it had formed part of the original Schedule, and shall be taken to be included in any reference made in this Act to such Schedule.

#### **45. Sale of impounded stock**

(1) Whenever any impounded animals have not been released within 10 days from the date of being impounded, the poundmaster shall forward to the District Commissioner of the district in which the pound is situated an advertisement setting forth the species, marks, and distinguishing peculiarities (if any) of such animals and in regard to horses and cattle their colour also.

(2) Such advertisement shall notify that the animals therein mentioned will be sold at the next sale of impounded animals, and shall set forth the time and place of such sale:

Provided that:

- (i) no advertisement shall include any branded animal until the poundmaster has received from the proprietor of every AC brand imprinted on such animal his written consent to the sale thereof; and
- (ii) subject to paragraph (i), where an advertisement includes a branded animal, it shall state that such inclusion is with the written consent of the proprietor of every AC brand imprinted on such animal.

#### **46. Advertisement of sale and notices**

Every advertisement of notice of sale of impounded animals shall be published by the administrative officer in charge in such manner and form as the President may approve and direct.

#### **47. Copy of notices**

Every poundmaster, upon sending such advertisement to the District Commissioner, shall post a copy of it to the proprietor of every AC brand imprinted on any branded animal included in the sale, and shall also post a copy of it in some conspicuous place at or near his pound, there to remain until the day of sale.

#### **48. Frequency of sales**

The sales of animals impounded in the several pounds of each district shall take place as nearly as may be at intervals of one month, and be held at such place as the District Commissioner shall appoint.

#### **49. Time of sale**

(1) Every sale of impounded stock shall be held at 10 a.m. on the day fixed, and at every such sale the poundmaster shall act as auctioneer.

(2) No auctioneer's licence shall be required in the case of a poundmaster so acting, nor shall auction duty be payable in respect of purchases at any such sale.

(3) No poundmaster shall be directly or indirectly interested in any purchase at any sale so held by himself.

(4) The poundmaster, in his capacity as auctioneer, and subject to the preceding provisions of this section, shall at the auction give notice of any AC brand imprinted on any animal offered for sale and shall disclose that such animal is offered for sale with the written consent of the proprietor of every AC brand imprinted thereon.

#### **50. When animals may not be sold**

No animal shall be put up at any such sale unless it has been impounded for at least three weeks, except with the consent of the owner and the proprietor of every AC brand imprinted thereon.

**51. Procedure at sales**

(1) At every such sale all animals, except sheep and goats, shall be sold singly.

(2) Sheep and goats shall be sold in lots of not more than 10, but in no case shall sheep and goats, or sheep or goats with different brands or marks, be sold together in the same lot.

**52. Terms of payment at sales**

At every sale the animals shall be sold for cash, and the proceeds, less the amount of pound fees and other fees and charges payable in respect of such animals under this Act, shall be forthwith handed by the poundmaster to the District Commissioner, to be by him paid to the owners of the animals sold according to their respective rights:

Provided that-

- (i) if any animal or any number of animals belonging to one owner do not when sold realize sufficient to satisfy all such fees and charges as aforesaid, the proceeds shall be first applied to the payment of any mileage due to the poundmaster; and if the said proceeds are insufficient to satisfy such mileage, then the balance of mileage shall be paid to the poundmaster by the general revenue of the Government, and the balance of other fees or charges shall be recoverable from the owner by action in any competent court;
- (ii) any money being the proceeds of the sale of any impounded animal sold as aforesaid, which has not been claimed by the owner of such animal or other person entitled thereto within 12 months from the date of the sale, shall become the property of the State;
- (iii) the proceeds of the sale of any branded animal shall not be paid to the owner thereof without the written consent of the proprietor of every AC brand imprinted thereon;
- (iv) the proceeds of the sale of any branded animal shall not be paid to the proprietor of any AC brand unless he certifies in writing in the prescribed form that such proceeds will be applied by him to reduce a loan, advance or debt made by, or due to, him by the hypothecator named in the certificate and secured by a deed of hypothecation, registered under the Hypothecation Act, which constitutes a first hypothec over the movable property of such hypothecator.

**53. Special pound fees for bulls**

In addition to any fees prescribed in this Act, there shall be payable in respect of any bull of the age of one year or above a special fee of P10 to be paid or recovered in the same manner as the other fees so prescribed.

**54. Fees payable to Treasury**

All fees paid or recovered under section 53 shall be paid by the poundmaster to the State and credited to a fund to be administered as hereinafter provided.

**55. Compensation for damage done**

(1) In the case of any bull in respect of which the special fee prescribed in section 53 has been paid or recovered the owner of the property on which such bull was trespassing when removed to the pound may within three months of the date of the impounding thereof make application to the President for the payment to him out of the said special fee of compensation for damage caused by the bull to his stock in the course of such trespass.

(2) The President shall cause inquiry to be made into any application made under this section and if he is satisfied that damage has been sustained by the applicant by reason of the said trespass shall cause payment to be made to him of such sum by way of compensation as he considers just not exceeding the amount of the special fee paid or recovered in respect of such trespass.

**56. Repayment of balance**

Where no application is made within the period prescribed in section 55 or where upon any such application no compensation or a sum less than the amount of the special fee is awarded, the amount of the fee or the balance thereof as the case may be shall be paid to the owner of the trespassing animal.

#### **57. Civil right of action for damage preserved**

Nothing contained in sections 53 to 56 shall be deemed to deprive any person of any right of action in respect of damage caused by reason of the trespass of any bull notwithstanding that a special fee may have been paid or recovered in respect of such trespass under section 53 or that any payment may have been made to such person under section 55 but any court before which such action may be heard shall in estimating the damage caused by the trespass complained of have regard to any sum which may have been paid under section 55.

#### **58. Special procedure relating to impounded donkeys**

(1) Notwithstanding anything contained in this Act, whenever any donkey has been impounded the poundmaster shall forthwith post or cause to be posted at the gate of the pound and at the nearest police station a notice setting forth a description and the marks or distinguishing peculiarities (if any) of such animal, and fixing a date, which shall not be less than 14 days from the date of the impounding, when such animal will be sold.

(2) If at the sales so advertised and held no offer is made for the purchase of the animal, it may be destroyed by the poundmaster.

#### **59. General offences**

Any person who illegally impounds any animal shall be liable to make good to the owner all damages, costs and charges arising out of such proceeding.

#### **60. Fees when conflicting tariffs apply**

In case any property trespassed upon is situated in a different district from that in which the pound proper for the receipt of trespassing animals is situated, and in case the rates of mileage and trespass money in the two districts are different, then mileage and trespass money shall be payable according to the rate for the district in which the property trespassed upon is situated, but all rates payable upon the delivery of such animals to the poundmaster and for herding, grazing, and feeding the same, shall be payable according to the rate for the district in which the pound is situated.

#### **61. Fees for molesting animals**

Every person who wrongfully molests, drives, or scatters the animals of another person when upon the property of such last-mentioned person, or takes away such animals from the land of their owner, shall be guilty of an offence and liable to a fine not exceeding P20.

#### **62. Civil action for damages preserved**

(1) Nothing contained in this Act shall be construed so as to prevent any proprietor on whose property animals have trespassed from instituting legal proceedings in any competent court for recovery of any damage caused by such trespass:

Provided that no person who has claimed trespass money under this Act shall be competent afterwards to institute legal proceedings in respect of the same trespass except in the case mentioned in the first proviso to section 52.

(2) Whenever any proprietor has instituted proceedings at law for the recovery of damages for any alleged trespass, the owner of the animals impounded for such alleged trespass shall be entitled to release the same upon the payment of all such charges as shall be payable under this Act other than trespass money, upon giving security to the satisfaction of any administrative officer or justice of the peace for the payment of any damage and costs which the proprietor may recover by such proceedings.

#### **63. Recovery of penalties**

All fines and penalties imposed by any of the provisions of this Act shall be recoverable in a magistrate's court presided over by a Magistrate Grade I or over.

**64. General Penalty**

Any person contravening any of the provisions of this Act in regard to which no penalty is expressly herein provided shall be guilty of an offence and liable to a fine not exceeding P100.

**65. Imprisonment possible in all cases**

When any person has been convicted of an offence against any provision of this Act he may as an alternative or in addition to the fine imposed or in default of payment thereof, be sentenced to imprisonment for a term not exceeding six months, unless any other term of imprisonment is specially herein provided.

**66. Custody in pound of stolen animals**

(1) Any administrative officer may send to any pound in the district within his jurisdiction any animals alleged or proved to have been stolen, and may remove or authorize the removal of the same at his discretion on payment of any sums due in respect thereof under this section.

(2) It shall be the duty of the poundmaster to receive any animals so sent to his pound, and they shall not be subject to the provisions of this Act in respect of the sale of impounded animals, but shall be dealt with in such manner as the District Commissioner may direct.

(3) No mileage shall be payable in respect of the said animals, and in the absence of any special agreement as to the charge to be made for keeping them, the poundmaster may charge only the fees prescribed in the Fifth Schedule.

(4) Any sum due in terms of this section for keeping or sustaining such animals shall be a first charge upon the said animals, and shall be paid before the poundmaster is required to deliver the animals.

(5) Where any animal referred to in subsection (2) is a branded animal, the District Commissioner shall notify in writing the proprietor of any AC brand imprinted thereon of the whereabouts of such animal.

**67. Act not to apply where Matimela Act applies**

The provisions of this Act shall not apply to any area to which the Matimela Act applies.

**68. Finance when poundmaster is police officer**

Every subordinate police officer appointed to be a poundmaster in terms of section 4 shall pay into the general revenue of the Government all fees which would otherwise under this Act, and except for this section, have been received by him and retained for his own use, and the cost of providing kraals and grazing or any other expense which is required of the poundmaster under this Act shall be defrayed by the State.

**69. Limitation in respect of certain townships**

Where in respect of any city or township declared as such under the Townships Act an authority howsoever denominated has been constituted, the President, on application by the said authority, may, by order published in the *Gazette*, direct that such of the provisions of this Act as he may specify in the order shall not apply within the limits of the said township.

**FIRST SCHEDULE**

**RATES FOR ANIMALS GOING TO THE POUNDS**

For all animals, except donkeys, whether one or more, per 1,6 km, going to the pound ..... 5t  
For donkeys, whether one or more, per 1,6 km, going to the pound ..... 3t

**SECOND SCHEDULE**

**TRESPASS ON CULTIVATED LAND**

Description of animal	If land enclosed with sufficient fence	If land not so enclosed
Horses, cattle, ostriches and pigs, per head .....	15t	8t
Goats, per head .....	5t	3t

Sheep, per head .....	3t	1t
Donkeys, per head .....	8t	3t

**THIRD SCHEDULE  
TRESPASS ON UNCULTIVATED LAND**

Description of animal	If land enclosed with sufficient fence	If land not so enclosed
Horses, cattle, ostriches and pigs, per head .....	5t	3t
Goats, and sheep per head .....	1t	1/2t
Donkeys, per head .....	3t	1t

**FOURTH SCHEDULE  
POUND FEES**

Horses, cattle, pigs, and ostriches, per head .....	5t
Sheep and goats, per head .....	1/2t
Donkeys, per head .....	3t

**FIFTH SCHEDULE  
SUSTENANCE FEES**

Ostriches, per head, <i>per diem</i> .....	4t
Horses, cattle, and pigs, per head, <i>per diem</i> .....	4t
Sheep and goats, per head, <i>per diem</i> .....	1/2t
Donkeys, per head, <i>per diem</i> .....	2t

**SIXTH SCHEDULE  
FEES FOR ANIMALS HERDED SEPARATELY**

Fees for animals to be separately herded-	
For every stallion, <i>per diem</i> .....	15t
For every ostrich, <i>per diem</i> .....	15t
For every bull, <i>per diem</i> .....	10t
For every boar, <i>per diem</i> .....	8t
For every sheep ram, goat ram or other separated animal, <i>per diem</i> .....	3t
For every donkey, <i>per diem</i> .....	8t