

Zambia

Public Pounds and Trespass Act, 1920

Chapter 253

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Public Pounds and Trespass Act, 1920

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Zambia

Public Pounds and Trespass Act, 1920

Chapter 253

Commenced on 28 April 1920

[This is the version of this document at 31 December 1996.]

[2 of 1920; 36 of 1933; 47 of 1963; 57 of 1964; Government Notices 319 of 1964; 497 of 1964; Statutory Instrument 29 of 1964; Act No. 13 of 1994]

An Act to provide for the establishment, management and control of public pounds; to provide for the assessment of damages and trespass money in respect of animals found trespassing; to prescribe pound fees; and to provide for matters incidental to or connected with the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Public Pounds and Trespass Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**animal**" includes cattle, horses, sheep, goats and pigs;

"**cattle**" means any bull, cow, ox, steer, heifer or calf;

"**declared area**" means any portion of Zambia to which the provisions of this Act have been declared to apply;

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

"**goat**" means any ram, ewe, wether or kid;

"**horse**" means any horse, mare, gelding, colt, filly, ass or mule;

"**owner**", in relation to land, includes a lessee or occupier and, in relation to any animal, an agent or caretaker;

"**pound**" means a pound established under the provisions of this Act;

"**pound assessor**" means any person appointed by a District Secretary as a pound assessor for his District;

"**sheep**" means any ram, ewe, wether or lamb;

"**stallion**" means any male horse, ass or mule not castrated;

"**sufficient fence**", when applied to wire fences, means a fence of so many wires and of such construction as the District Secretary shall from time to time decide; in other cases, a wall fence or barrier at least one hundred and thirty-seven centimetres high and through which no animal could pass without breaking the same.

[As amended by S.I. No. 29 of 1964]

Part II – Establishment and control of pounds

3. Establishment of pounds

The Minister may, by statutory notice, establish a pound at any place within a declared area and may similarly abolish any pound so established.

[As amended by G.N. No. 319 of 1964]

4. Management and control of pounds

The management and control of every pound shall be vested in the District Secretary of the District in which such pound is situate.

5. Appointment of pound-masters

The District Secretary may appoint—

- (a) a poundmaster of any pound in his District subject to the terms of the contract entered into between the District Secretary and such poundmaster:

Provided that—

- (i) no person shall at the same time be poundmaster of more than one pound; and
 - (ii) no person shall be appointed or continue as poundmaster who is a licensed dealer in intoxicating liquor;
- (b) as many pound assessors as may be requisite;

and such District Secretary may dismiss any such poundmaster or pound assessor.

6. Duties of poundmasters

- (1) It shall be the duty of every poundmaster to receive into his charge all animals tendered at his pound between sunrise and sunset by any owner, or by the caretaker for any owner, or by any person authorised in writing thereto by such owner or caretaker, in order to be impounded, as having been found trespassing upon the land of such owner.
- (2) Any poundmaster who refuses or neglects to receive animals tendered as aforesaid shall be liable on each occasion to the penalty prescribed by section seventy-eight, 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) In case any horses or cattle suffering from any contagious disease shall be sent to the pound, such horses or cattle shall be kept separate from all other impounded stock, and the poundmaster may, subject to the provisions of section thirteen, cause the same to be destroyed.

7. Receipts to be given for animals impounded

The poundmaster, or someone acting on his behalf, shall give to the 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.

8. Separate enclosures of pound

Every poundmaster shall maintain in good repair, and as far as possible free from all infection, not less than three separate and sufficient enclosures, that is to say, one for horses, one for cattle, and one for sheep, goats and pigs:

Provided that the District Secretary may, in regard to any pound in his District, give permission to the poundmaster to maintain in manner aforesaid a lesser number of such enclosures.

9. Segregation of infected sheep and goats

- (1) Every poundmaster shall, with regard to sheep or goats which are infected with scab when received at his pound, or which become infected during their detention, keep such sheep or goats entirely separate, at all times, from other impounded animals not so infected, and shall dip or dress, with one of the recognised dips, every such infected sheep or goat as often as may be reasonably necessary.
- (2) The owner of every such infected sheep or goat shall be bound to pay to the poundmaster, in respect of such dipping or dressing, such sum as may be due under a tariff framed for that purpose by the District Secretary.

10. Care of animals impounded

- (1) 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.
- (2) In case any animal received into a pound shall prove to be dangerously vicious, the poundmaster shall apply to the District Secretary, who shall make such order thereon as he shall deem fit, and may order its destruction.

11. Use of animals impounded an offence

Any poundmaster who shall ride or otherwise work or use any impounded animal shall be liable for every such offence to the penalty prescribed by section seventy-eight.

12. Death of animals impounded

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. Destruction of impounded animals when diseased, etc.

Any poundmaster may destroy, subject to the exceptions hereinafter stated, any impounded animal suffering from a contagious disease, or likely to prove dangerous to human life, or destructive to other animals impounded:

Provided that—

- (i) the poundmaster shall completely and effectually isolate any diseased animal away from any road;
- (ii) no such animal shall be destroyed until a Government Veterinary Officer or a pound assessor or two disinterested landowners shall have examined it, and shall agree with the poundmaster as to the necessity for its destruction;
- (iii) the poundmaster shall summon the owner of such animal, if known, to attend the examination aforesaid, which summons may be by letter duly sent through the post;
- (iv) if the owner of the animal objects to its destruction, the poundmaster may release it. If such owner shall give an undertaking to destroy the animal the poundmaster shall release at the same time all other animals belonging to him which may have been impounded on the same occasion as the animal proposed to be destroyed;

- (v) (A) every pound assessor or landowner attending for the purpose of the inspection aforesaid, shall be paid by the poundmaster the sum of seventy-five ngwee, together with railway fare, or if and so far as no railway shall be available, horse-hire at eight ngwee per mile or bicycle hire at five ngwee per mile;
 - (B) the amount so paid may be recovered by the poundmaster from the owner of the animal if it be destroyed;
 - (C) if the animal be not destroyed or if the owner be unknown, or if it be 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 by the Government;
- (vi) nothing in this section shall apply to sheep or goats suffering merely from scab.

14. Disease occurring in a pound

Any poundmaster who shall sell any cattle at a pound wherein any contagious disease has occurred within six months of the date of such sale shall, at the time of sale, first publicly declare at what date the last case of any contagious disease occurred in the pound.

15. Records of disease

Every poundmaster shall keep a book for the purpose of entering therein a record of each case of contagious disease, showing the date when any animal was destroyed and stating whether on examination the poundmaster and the witness or witnesses pronounced the animal to be infected, and recording the marks by which such animal was to be distinguished; and such book shall be received in evidence if any question arises concerning the destruction of any animal under the provisions of this Act or compensation in respect thereof.

16. Impounding of animals when more than one pound situate in same District

- (1) No poundmaster who is in charge of a pound situated within a distance of nineteen kilometres from any other pound in the same District shall confine in his own pound any animals found trespassing upon property belonging to himself; but such animals shall be sent to such other pound which is within such distance of nineteen kilometres in the same District as may be nearest to his own pound by a practicable road or thoroughfare.
- (2) Any poundmaster sending such animals to another pound shall enter in his pound book the number and description of the animals sent.
- (3) For contravention of any of the provisions of this section a poundmaster shall be liable to the penalty prescribed by section seventy-eight.

17. Notice to owners of impounded animals

Every poundmaster who knows the name of the owner of any animals 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 animals have been impounded.

18. Duties of poundmaster when impounded animals are branded

- (1) Upon the establishment of a pound, the Registrar of Brands shall furnish the poundmaster thereof with a copy of the Brand Directory which shall have been last compiled under the provisions of section nine of the Brands Act and shall furnish such poundmaster with a copy of every Brand Directory thereafter compiled.
- (2) The poundmaster of every pound wherein any animal bearing a brand shall be impounded shall without delay give notice, either verbally or by letter sent or duly posted, to the proprietor of such brand if found to be registered.

- (3) For every letter so sent the poundmaster shall be entitled to a fee of ten ngwee, plus postage (if any) paid thereon.

[Cap. 244]

19. Brand Directory and scale of fees, etc., to be exhibited

- (1) Every poundmaster shall have and preserve at or near his pound a copy of this Act and of the last Brand Directory received by him, and the same shall at all reasonable times be open for reference to the public.
- (2) Every poundmaster 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 the District Secretary may authorise in their place.

20. Pound book and details to be entered therein

- (1) Every poundmaster shall keep a pound book, and the following particulars shall be legibly entered by every poundmaster in his pound book:
- (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 any brands or marks thereon;
 - (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) any other matters which he may be directed by the District Secretary to ascertain and record, and the particulars of any notice sent to him in terms of section thirty-one.
- (2) The said entries shall be made at the time the acts recorded were done, or so soon thereafter as possible; but not after any dispute concerning them has arisen.
- (3) Generally, 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 District Secretary.

21. 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 inspection, free of charge, by—
- (a) the District Secretary;
 - (b) any person authorised by such District Secretary;
 - (c) any police officer of or above the rank of Assistant Inspector;
 - (d) a Government Veterinary Officer and any officer appointed under any written law relating to diseases in animals;

and shall be similarly open to every other person upon payment of a fee of five ngwee 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 ten ngwee for every such extract not exceeding one hundred words and five ngwee for every subsequent hundred or part of one hundred words.

[As amended by No. 47 of 1963]

22. Copies of entries to be forwarded to District Secretary

- (1) Every poundmaster shall, within a fortnight after the date of each pound sale, forward to the District Secretary a copy of all entries in his pound book made since the date of the preceding transmission.
- (2) The District Secretary shall preserve all such copies in his office for the inspection of any person desirous of seeing them.

23. Offences by poundmaster

Every poundmaster who shall—

- (a) refuse to allow his pound book, Brand Directory or copy of this Act to be inspected by any person having a lawful right to inspect them; or
- (b) neglect in any respect to comply with the provisions of sections sixty-six to seventy-one inclusive; or
- (c) neglect or refuse to forward to the District Secretary the copies of entries referred to in the preceding section;

shall be liable for each offence to the penalty prescribed by section seventy-eight.

24. Penalties for making false entries, etc.

Every poundmaster who shall—

- (a) knowingly make a false entry in his pound book;
- (b) fraudulently destroy or erase any entry already made; or
- (c) wilfully deliver to the District Secretary aforesaid a false copy or extract from his pound book;

shall be liable to the penalty prescribed by section seventy-eight.

25. Pound book to be available for inspection at 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.

Part III – Trespass**26. Trespass on private property**

- (1) Any owner upon whose land any animal is found trespassing may send such animal to that pound which is the nearest, by a practicable road or thoroughfare, to the land trespassed upon, and to no other pound:

Provided that such land shall not be an unfenced stand within the limits of a town or village.

- (2) The Minister may, by statutory notice, define an area and specify the pound to which any animal trespassing in such area or in any part thereof shall be sent.

[As amended by G.N. No. 319 of 1964]

27. Destruction of dogs, pigs, poultry or pigeons found committing damage

- (1) All pigs, poultry or pigeons found trespassing in or upon—
 - (a) any garden, including any market garden or kitchen garden 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;
 - (c) any place containing grain;may be destroyed by the owner or any person acting by his authority.
- (2)
 - (a) Any dog found trespassing at any time in a fenced camp or enclosed place, in which there are game animals, may be destroyed.
 - (b) 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 or animals in any fenced camp or enclosed place.

28. Tender by owner of amount of damage

- (1) The owner of any animals liable to impoundment for trespass may, before the animals have been removed from the property trespassed upon, tender to the person complaining of the trespass a sum of money to cover the damage suffered by him, or the trespass money lawfully claimable under any section of this Act in connection with such trespass: such tender to be made to the complainant himself or his caretaker.
- (2) If such animals as aforesaid are in course of being conveyed to the pound, then their owner may tender a sum of money to cover the damage or trespass money aforesaid, and also the mileage to which the person complaining of the trespass would be entitled under this Act if the animals had actually been impounded: such tender may be made either to the complainant himself or to his servant or agent charged with the duty of conveying the animals to the pound.
- (3) If the said tender be refused, the person complaining of trespass shall pay the cost of all legal proceedings which the owner may thereafter institute in respect of the detention of the animals after the date of the tender, and shall be liable for all damages sustained by the owner by reason of such detention, 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 complainant, 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 authorised agent of the owner.

29. Wrongful use or conversion of animals trespassing, etc.

No person shall—

- (a) use or retain possession of or sell or otherwise dispose of any animal found astray; or
- (b) sell or dispose of any animal found trespassing upon his property;

under the penalty prescribed by section seventy-eight:

Provided that the recovery of any such penalty shall be no bar to any prosecution for theft, or to the recovery from such person of the value of the animal and damage for its illegal detention or sale.

30. Food and water to be supplied to animals confined

No person who has seized animals for the purpose of being impounded shall tie them up or cause them to be confined in any stable, kraal or other enclosure without food or water for a longer period than six hours during the day-time.

31. Duties of landowners in connection with stray animals

- (1) No owner shall ride, work or use any animal found trespassing upon his land or detain such animal in any stable or enclosure for any space of time longer than twenty-four hours:

Provided that where a permit for the removal of any such animal to a pound is required under the provisions of the Stock Diseases Act or any regulations made thereunder, the owner of such land shall immediately take steps to obtain such permit and may retain the animal until the permit is received.

[Cap. 252]

- (2) No owner shall knowingly allow any stray animal to remain upon his property for a period longer than two weeks, unless he shall have 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. Such notice shall be sent by letter delivered or duly posted, or shall be given personally, 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) A poundmaster receiving any such notice as is referred to in subsection (2), shall place upon the notice-board referred to in section nineteen a notice setting forth fully what has been communicated to him, and shall also send a copy of such notice to the District Secretary to be put up where notices are usually placed for public information. In the advertisement prepared in accordance with the requirements of section sixty-six, attention shall be directed to the contents of any such notice.
- (4) No person shall, by public advertisement, intimate or notify that if the owner of any animal either found astray or trespassing upon his property shall fail to claim it, such animal will either be retained by him or be dealt with in any other manner than by impounding.
- (5) 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 thorough-fare, unless some other shall be more desirable for the animal itself, 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.
- (6) Any person contravening this section shall be liable to the penalty provided by section seventy-eight, and shall make good to the owner of such animal or animals any damage sustained by reason of such infringement.

32. Rescue of animals

- (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) No person shall break down, injure or destroy any pound duly established, whether animals are impounded therein or not, or commit any act whereby animals shall escape or be at large from such pound, under the penalty prescribed by section seventy-eight.

33. Payment of mileage in respect of animals impounded

Every person who delivers any animals to a poundmaster to be impounded shall be entitled to receive from such poundmaster mileage at the rate set forth in the First Schedule:

Provided that—

- (i) when the person so delivering the said animals is not himself the owner of the land trespassed upon, or the caretaker for the owner, then he shall produce a written memorandum signed by such owner or caretaker giving a description of the animals, and authorising the bearer to convey them to the pound, and every such memorandum shall be preserved by the poundmaster as a voucher;

- (ii) when more persons than one have been necessarily employed in conveying the said 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 thereof, in any competent court, similar mileage in respect of every other such person so employed.

34. Payment of trespass money in respect of cultivated land

The owner of any animal lawfully impounded for trespass upon—

- (a) any garden, including any market garden or kitchen garden or orchard;
- (b) any place upon which a cultivated crop is growing, or upon which such crop, having been gathered, is still lying;
- (c) any yard, floor or place containing grain or dried fruit;

shall, subject to the provisions hereinafter contained, be liable to pay trespass money to the owner of the property trespassed upon, calculated according to the rates set forth in the Second Schedule:

Provided that—

- (i) any owner, or the caretaker for any owner, 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 species of place or property upon which they have trespassed;
- (ii) when the person impounding elects to claim trespass money calculated according to the Second Schedule, the memorandum shall state the amount so claimed; but if he elects to refer the amount of damage to the award of a pound assessor and landowners as provided by section thirty-eight, or if he elects to proceed for damages by action, the memorandum shall state such election on the part of the person signing it;
- (iii) if the memorandum delivered with the animals does not state the species of place or property upon which they have trespassed, then they shall be considered as impounded for trespass under section thirty-five;
- (iv) when such animals are taken to the pound by the owner or caretaker aforesaid in person, then the verbal statement of such owner or caretaker upon the matters referred to in provisos (i) to (iii) shall be taken and recorded by the poundmaster.

35. Payment of trespass money in respect of uncultivated land

The owner of any animals lawfully impounded for trespass upon any uncultivated ground, or any place not of the description in the last preceding section given, shall be liable to pay trespass money to the owner of the property trespassed upon at the rate set forth in the Third Schedule.

36. Double damages for repeated trespass

In case any property shall be trespassed upon on more than one occasion within the space of fourteen days by animals belonging to the same owner, then the said owner shall be liable in respect of the second trespass to pay twice the amount of trespass money which would have been payable under this Act, had such second trespass not been a repeated trespass.

37. Release of animals impounded

- (1) No poundmaster shall release any impounded animal until there shall have been paid to him, in addition to all other fees and charges, the amount of all damages or trespass money due and payable under sections thirty-four, thirty-five, thirty-six, forty, forty-one, forty-three, forty-seven, fifty-three and fifty-four, in respect of such animals.

- (2) In case of the release of any such animals, without payment of the damages or trespass money aforesaid, the poundmaster shall be liable for such damages or trespass money.

38. Assessment of damages if otherwise inadequate

If any owner shall consider the amount of trespass money claimable under this Act inadequate for the damage done to his property by animals trespassing thereon, he may demand that such damage shall be assessed by the nearest pound assessor, as umpire or referee, and two landowners as arbitrators. In every such case the following provisions shall apply:

- (a) the owner intending to have the amount of damages assessed by arbitration under this section shall give notice to the owner of the animals (where he is known) and to the nearest pound assessor within twenty-four hours after the trespass has been committed;
- (b) the owner shall appoint one arbitrator, and the owner of the animals (where he is known) the other. If the owner of the animals neglects or refuses to appoint an arbitrator, then the arbitrator nominated by the owner of the property shall proceed to assess the damages in conjunction with a landowner nominated by the nearest pound assessor as a second arbitrator; if the nearest pound assessor is away from home or fails to nominate the second arbitrator, then such second arbitrator shall be nominated by the nearest pound assessor willing to make such nomination;
- (c) if the nearest pound assessor is absent from home, or is unable or unwilling or fails to act, then the two arbitrators appointed shall select some impartial landowner to act as referee in place of the pound assessor;
- (d) if the owner of the animals is unknown, then the assessment shall only take place in the presence of a pound assessor. The owner of the property shall in such cases obtain the services of the nearest available pound assessor, who shall appoint two landowners as arbitrators and shall himself act as umpire or referee;
- (e) the pound assessor referee shall appoint a convenient time for the inspection of the property trespassed upon; and the referee and arbitrators shall be entitled to receive from the complainant for their services the sum of seventy-five ngwee each, together with railway fare or, if and so far as no railway shall be available, horse-hire at eight ngwee per kilometre or bicycle at five ngwee per kilometre, which charge, as well as the damage assessed, shall be paid to the complainant by the owner of the animals in case the damages assessed shall exceed the amount which would under any of the Schedules have been claimable;
- (f) if any owner of property who demands arbitration under this section shall agree with the person from whom he claims damages to submit the matter to any single referee or to any arbitrators whom the parties may select, then such referee or arbitrators shall, unless the written agreement for arbitration shall otherwise provide, be bound to act in accordance with the provisions of this section, and their award shall be considered to be of the same effect as if it had been given by the pound assessor and landowners herein mentioned.

39. Award by assessors

Every award made under the preceding section shall be in writing, and shall be signed by the arbitrators and by the pound assessor or referee, or, in the case of a single landowner being lawfully entitled to make it as referee, by such landowner; and it shall state the amount at which the damage has been assessed, and also whether the complainant or the owner of the animal is liable to pay the charge for the award:

Provided that if the pound assessor or referee and landowner shall not agree in their assessment, then the amount agreed upon by any two of them shall be the amount awarded.

40. Copy of award to complainant

Every such award shall be handed to the complainant, who shall send a true copy of such award to the poundmaster of the pound to which the animals have been sent, and thereupon the assessed damages and charges, if allowed, shall become a charge upon the animals impounded.

41. Trespass by infected sheep or goats

- (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 owner of the property and free from the said disease, be liable to pay to the owner of the property twice the amount of trespass money which would have been payable under the provisions of sections thirty-four and thirty-five in regard to a similar trespass by sheep or goats not so infected.
- (2) In case the trespassing sheep or goats are found mixed with other sheep or goats belonging to the owner of the property, then their owner shall be liable to pay to the owner of the property four times the amount of trespass money which would have been payable under the aforesaid sections in regard to a similar trespass by sheep or goats not so infected.
- (3) Any person who shall wilfully drive 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 the said disease, shall, in addition to any damage or trespass money payable under this Act or otherwise, be liable, on conviction, to be imprisoned, with or without hard labour, for any period not exceeding six months.

42. Infection of one animal to be deemed infection of whole flock

For the purposes of this Act, if any sheep or goat found trespassing is infected with scab as in the last preceding section mentioned, then 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.

43. Claim for damages in respect of infected sheep or goats

If damages are claimed for the trespass of any sheep or goats alleged to be infected with scab, the pound assessor or referee and the arbitrators shall, before awarding any damages, be satisfied that the trespassing sheep or goats are infected with scab and shall ascertain whether or not the trespassing sheep or goats were found mixed with sheep or goats not trespassing and free from such disease.

44. Reference of question as to infection to assessors

The owner of any sheep or goats alleged to be infected with scab and with respect to the trespass of which trespass money is claimed under this Act may, upon depositing with the poundmaster the sum of two kwacha and twenty-five ngwee, demand that the question whether the said sheep or goats are so infected be submitted for decision to the award of a pound assessor and two arbitrators; and thereupon the provisions of section thirty-eight shall apply to every such case.

45. Trespass by stallions, etc.

The owner of any stallion, bull, sheep-ram or goatram, which shall be found trespassing upon the property of another person, and found to be in company with any mare, cow, heifer or ewe, respectively, belonging to the owner of such property or being thereon with the consent of the owner of such property, shall be liable to pay to him in addition to all other pound fees or charges, a penalty calculated upon the following scale:

- (a) for every stallion so found, a sum not exceeding three hundred penalty units;
- (b) for every bull so found, a sum not exceeding one hundred and fifty penalty units

- (c) for every sheep-ram or goat-ram so found, a sum not exceeding thirty penalty units.

[As amended by No. 36 of 1933 and Act [No. 13 of 1994](#)]

46. Saving as to young stallions, etc.

The provisions of the last preceding section shall not apply to any stallion under the age of two years, to any bull under the age of one year, and to any sheep-ram or goat-ram under the age of nine months, and the trespass money payable in respect of any stallion, bull, sheep-ram or goat-ram, found trespassing, but not under the circumstances detailed in the last preceding section, shall be the same amount that would have been payable in respect of a similar trespass by a gelding, ox or wether, as the case may be.

47. Reference to assessors

Any person who is entitled to claim damages under section forty-five may require that the amount of damages shall be determined by a pound assessor or referee and two landowners; and in that case the provisions of section thirty-eight, thirty-nine and forty shall apply to such determination and inquiry.

48. Castration of impounded stallion

No stallion above the age of two years which shall hereafter be lawfully impounded shall be released by the owner thereof, or sold out of the pound, without being previously castrated, unless such stallion shall be released under the provisions of section fifty-one.

49. Payment of fee for castration

- (1) Every such stallion not released under the provisions of section fifty-one shall be castrated by the poundmaster, if competent to perform such operation, or by some other competent person employed by him at his own expense, and such poundmaster shall be allowed for the performance of this duty a fee of fifteen fee units, to be recovered from the owner of such stallion, if known, or deducted from the proceeds of sale should such animal be sold out of the pound:

Provided that no such fee as aforesaid shall be recoverable from the owner in respect of any animal which shall die while in the poundmaster's keeping in consequence of such castration.

- (2) If the said proceeds be insufficient to pay the said fee, then the amount of such fee shall be paid to the poundmaster by the Government.

[As amended by Act [No. 13 of 1994](#)]

50. Postponement of castration

No stallion shall (except as hereinafter is provided) be castrated under the provisions of this Act until it shall have remained impounded for at least three weeks; and any stallion not sooner released by or on behalf of the owner thereof, shall, subject to such regulations as may be in force at the date of such sale, be sold at the first pound sale occurring after the expiration of thirty days from the date of such stallion having been impounded:

Provided that if the owner of such stallion shall give his consent, or shall decline to release it under section fifty-one, such stallion may be castrated forthwith, and shall be castrated without unnecessary delay, should the owner thereof desire to release the same under the provisions of this Act.

51. Release of stallion without castration

The owner of any stallion which may hereafter be impounded shall be entitled to release such stallion without its being castrated, upon payment of pound fees and other charges, and upon giving security to

the satisfaction of the District Secretary or pound assessor for the payment of any fine or penalty and costs of suit recoverable under section forty-five:

Provided that—

- (i) every such owner shall be entitled to tender to any person claiming any penalty under section forty-five, such sum as he shall consider adequate to cover such fine or penalty as aforesaid;
- (ii) in the event of such tender being refused, the person claiming any such fine or penalty shall be condemned in the costs of such legal proceedings as he may afterwards institute for the recovery thereof, unless the court in which the same shall be pending shall award such fine or penalty as shall exceed the amount so tendered.

52. Trespass on outspans and State Land

- (1) In each District, every District Secretary and pound assessor, and also any person authorised in writing by any of the said persons, may impound any animals found upon any outspan place or vacant State Land in such District.
- (2) Subsection (1) shall not apply to animals in the possession of travellers who have outspanned for a period not greater than twenty-four hours, or for any period during which they may be detained by stress of weather or other sufficient cause upon the said outspan place.

53. Impounding of animals so trespassing

- (1) All animals impounded under the last preceding section shall be sent to the same pound as would have been the case had the outspan or vacant State Land been private property, and they had trespassed thereon.
- (2) The same mileage and trespass money shall be payable as if the said outspan or such vacant land were private property.
- (3) The mileage shall be paid to the person taking the animals to the pound, and the trespass money shall be paid to the District Secretary, or to some person entitled to receive it for him.

54. Trespass at dams or tanks

Any animal not belonging to, or in the possession of a traveller which is found trespassing upon any dam or tank belonging to the Government, and intended for the use of travellers and their cattle only, may be impounded by any of the persons mentioned in section fifty-two, or by any person duly authorised to take charge of such dam or tank; and the person so impounding shall be entitled to the mileage as in the last preceding section provided.

55. Increased penalties for continued trespass as in section 54

If animals belonging to the same person shall, on more than one occasion during any period of three months, be impounded under the provisions of section fifty-four, then such person shall, in addition to all other fees and charges, be liable to the penalty prescribed by section seventy-eight.

Part IV – Pound fees

56. 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 shall have been actually placed within the pound kraal.

57. Sustenance fees

Every poundmaster shall be entitled, in addition to the fees in the last preceding section mentioned, to demand or retain, as the case may be, a further fee for every day during which any such animal shall be herded, grazed and fed by him; such fee to be in accordance with the Fifth Schedule.

58. Fees for animals separately herded

Every stallion above the age of two years, every 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, shall be unfit to run with the remaining herd, 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 enumerated in the Sixth Schedule.

59. Fees to be a charge on the animals

The fees mentioned in the last three preceding sections shall be paid to the poundmaster for his own use by the owner of the animals impounded; and the said fees, together with the mileage paid by the poundmaster, in terms of this Act, shall be a charge upon such animals; and such animals may be detained by the poundmaster in security of the said fees and mileage:

Provided that—

- (i) if the value of the animals impounded is in excess of the total charges due thereon and ascertained under this Act, then the poundmaster shall only detain so many of the said animals as may be reasonably sufficient to secure the total charges due upon all the animals, and shall deliver the remainder of the animals to the owner;
- (ii) any poundmaster who shall retain, 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.

60. Fee for attending sale

- (1) Every poundmaster shall, for his attendance at every pound sale, as hereinafter provided, be allowed a fee of fifteen fee units, to be paid proportionately out of the proceeds of the animals sold at such sale.
- (2) If such proceeds be insufficient, then the Government shall, through the District Secretary, pay to the poundmaster such amount as, together with the sum received by him from the proceeds, shall amount to fifteen fee units.

[As amended by Act [No. 13 of 1994](#)]

61. Additional fee for unbranded horses and cattle

In addition to the fees hereinbefore provided, every poundmaster shall receive for every horse or head of cattle impounded in his pound, and bearing no registered brand, an additional fee of five ngwee, which shall be a pound charge on such animal.

62. Alteration of fees

The District Secretary may from time to time alter the tariff of fees and rates fixed in any of the Schedules in respect of all pounds situated in his District.

63. Validation of alteration of fees

Every such alteration or amendment of any of the Schedules, when published as hereinafter provided, shall be of the same legal force 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.

64. Altered fees to be gazetted

No such altered tariff shall take effect until it has been published in the *Gazette* and in some newspaper circulating in the District.

65. Copies to be furnished to poundmasters

As soon as the District Secretary shall have framed and published an altered or amended Schedule as hereinbefore provided, each poundmaster in the District shall be furnished by the District Secretary with a copy thereof.

66. Sale of impounded stock

Whenever any impounded animals shall not be released within ten days from the date of their impoundment, the poundmaster shall forward to the District Secretary an advertisement setting forth the species, marks, brands and distinguishing peculiarities (if any) of such animals, and, in regard to horses and cattle, their colour also. Such advertisement shall notify that the animals therein mentioned will be sold at the next sale of impounded cattle, and shall set forth the time and place of such sale.

67. Notice of sale to be published in newspaper

Every advertisement or notice of the sale of impounded animals shall be published at least twice in succession in such paper or papers as the District Secretary may direct, and the expense of such publication shall be borne by the Government.

68. Posting of notice

Every poundmaster, upon sending such advertisement to the District Secretary as aforesaid, shall post a copy of it in some conspicuous place at or near his pound, there to remain until the day of sale, and the District Secretary shall also send a copy by post to every other poundmaster in the District, and every poundmaster receiving such copy of an advertisement as aforesaid shall post the same in a conspicuous place at or near his pound, there to remain until the date of sale therein mentioned.

69. Arrangements for sales

The sale of animals impounded in the several pounds of each District shall take place, as nearly as may be, at intervals of one month; and shall be held at such places as the District Secretary may appoint:

Provided that—

- (i) the dates of the said sales shall, as far as possible, be so arranged as to cause each successive sale to be held in a different month, and to allow a notice of at least fifteen days to be given of the sale of any animals;
- (ii) all District Secretaries shall transmit to the Minister for insertion in the *Gazette* once in the month of January, and again in the month of July, in each year, a notice setting forth the dates and places at which the several pound sales in the District are appointed to take place.

[As amended by G.N. No. 319 of 1964]

70. Poundmaster to act as auctioneer

At every sale of impounded stock the poundmaster shall act as auctioneer. No auctioneer's licence shall be necessary in order to enable a poundmaster so to act. No poundmaster shall be directly or indirectly interested in any purchase at any sale so held by himself.

71. Animals to be impounded for at least three weeks before sale

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.

72. Manner of conducting sale

- (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 ten.
- (3) In no case shall sheep and goats or sheep or goats with different marks or brands be sold together in the same lot.

73. Cash sale only and disposal of proceeds

- (1) At every such sale the animals shall be sold for cash, and the proceeds, less the amount of pound fees and other fees and charges properly payable in respect of such animals, and less the amount of any damage due or assessed under this Act, shall be forthwith, upon receipt, handed by the poundmaster to the District Secretary, to be by him paid to the owners of the animals sold according to their respective rights:

Provided that—

- (i) if in any case the animals sold shall not realise sufficient proceeds to satisfy all such fees, charges and damages, as aforesaid, the proceeds shall be first applied to the payment of the mileage due to the poundmaster, and if the said proceeds be insufficient to satisfy such mileage, then the balance of mileage shall be paid to the poundmaster by the Government, and the balance of other fees, charges or damages, shall be recoverable from the respective owners by action in any competent court;
 - (ii) any money, being the proceeds of the sale of any impounded animal sold as aforesaid, which shall remain in the hands of the District Secretary for a period of twelve months without being claimed by the owner of such animal, shall become the property of the Government.
- (2) Every poundmaster contravening this section shall be liable to the penalty prescribed by section seventy-eight.

74. Consequences of illegal impounding

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 proceedings, together with twenty ngwee for every horse or head of cattle, and one ngwee in respect of every other animal so illegally impounded:

Provided that nothing herein contained shall be deemed or held to prevent or bar any action for damages competent to such owner or any criminal prosecution.

75. Rates at which fees payable when more than one pound is concerned

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 shall be 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.

Part V – General

76. Penalty for molesting or scattering animals

Every person who shall wrongfully molest, drive or scatter the animals of another person when upon the property of such last mentioned person, or take away such animals from off the land of their owner, shall be liable, upon conviction, to the penalty prescribed by section seventy-eight.

77. Saving as to other remedies for trespass

Nothing in this Act contained shall be construed so as to prevent any person complaining of trespass from seeking redress according to law in any competent court:

Provided that—

- (i) no person who shall once have claimed trespass money under sections thirty-four and thirty-five shall be competent afterwards to require an assessment of damages by a pound assessor, or a referee and arbitrators under section thirty-eight, nor shall any person who shall once have claimed either such trespass money or such assessment be competent afterwards to seek redress by legal process;
- (ii) whenever any complainant shall decide to proceed 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 payment of pound fees, and upon giving security to the satisfaction of any magistrate for the payment of any damages and costs which the complainant may recover.

78. Penalties

Persons convicted of contravention of the provisions of this Act or any regulation made hereunder for which no other penalty is provided shall be liable to the penalties following, that is to say:

- (a) for every contravention by a poundmaster—
 - (i) of the sections numbered respectively six (2), eleven, nineteen, twenty-three and seventy-three, a sum not exceeding one hundred and fifty penalty units;
 - (ii) of the section numbered sixteen, a sum not exceeding three hundred penalty units;
 - (iii) of the section numbered twenty-four, a sum not exceeding seven hundred and fifty penalty units;
- (b) for every contravention by any person, including a poundmaster, of the sections numbered respectively twenty-nine, thirty-one, thirty-two, fifty-five and seventy-six, and any other provisions of this Act or any regulation made hereunder in regard to which no penalty is expressly provided, a sum not exceeding three hundred penalty units
- (c) in default of payment of the penalty imposed, to imprisonment with or without hard labour for a period not exceeding three months.

[As amended by Act [No. 13 of 1994](#)]

79. Impounding of animals alleged to have been stolen, etc.

- (1) Any District Secretary may send to any pound in the District within his jurisdiction any animals alleged or proved to have been stolen, or to have been taken possession of, or sold, or disposed of, in contravention of section twenty-nine, and may remove or authorise the removal of the same at his discretion.

- (2) It shall be the duty of the poundmaster to receive any animals so sent to his pound. Such animals shall not be subject to the usual pound regulations for the sale of impounded animals, but shall be dealt with in such manner as the District Secretary may direct.
- (3) No mileage shall be payable on such animals, and, in the absence of any special agreement as to the charge to be made for keeping the said animals, the poundmaster may charge only the sustenance fees set forth 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 bound to deliver the animals.

80. Application of Act

The provisions of this Act shall have effect in such portions only of Zambia as the Minister may, by statutory notice, direct and shall cease to have effect in any such portion as the Minister may, by like notice, withdraw from its operation.

[As amended by G.N. No. 319 of 1964]

81. Saving of rights of owner not within a declared area

Nothing herein contained shall affect the right of any owner of land, which is not situate within or deemed to form part of a declared area, to seize and impound upon such land animals found straying or damage feasant.

82. Other offences by pound-masters and others

Any poundmaster who shall knowingly obtain from an owner of animals detained in his pound money or property in excess of that authorised by this Act, and any person, not being a poundmaster, who shall obtain from an owner of animals found trespassing money or property in respect of such trespass, otherwise than in accordance with this Act, shall be liable, on conviction, to a fine not exceeding six hundred penalty units or to imprisonment for a period not exceeding six months, and shall further be ordered to make restoration in respect of any money or property so obtained, which order shall be made in the form of a civil judgment against him for the amount to be restored.

[As amended by Act [No. 13 of 1994](#)]

83. Regulations in respect of other portions of Zambia not within a declared area

With regard to any portion of Zambia which is not situate within or deemed to form part of a declared area, the Minister may, from time to time by statutory instrument, make regulations as to all or any of the following matters:

- (a) the notices which must be given when any animals have been seized and impounded;
- (b) scales of damage for trespass, pound fees and sustenance fees, or any of them;
- (c) generally as to animals seized, for their care, custody and sale or disposal if not released within a time to be prescribed;
- (d) the powers and duties of District Secretaries as to any stray animal or animals which have been seized and impounded for trespass, and the administration by such District Secretaries of such regulations.

[As amended by G.N. No. 319 of 1964 and S.I. No. 29 of 1964]

First Schedule (Section 33)**Rate of mileage**

	ngwee
For all animals, whether one or more, per kilometre, going to the pound	5

Second Schedule (Section 34)**Trespass on cultivated land, etc.**

Description of animal	If land enclosed with sufficient fence	If land not so enclosed
	ngwee	ngwee
Horses, Cattle and Pigs, per head	15	8
Goats, per head	5	2
Sheep, per head	2	1

The fees chargeable under the First, Second, Third, Fifth and Sixth Schedules have been doubled, and under the Fourth Schedule trebled, in the—

Lusaka District by [General Notice No. 875 of 1951](#);

Kabwe Rural District by [General Notice No. 1030 of 1951](#);

Livingstone District by [General Notice No. 1233 of 1951](#);

Kabwe Urban District by [General Notice No. 1426 of 1951](#);

Mazabuka District by [General Notice No. 24 of 1952](#);

Choma District by [General Notice No. 1277 of 1956](#);

Chipata District by [General Notice No. 65 of 1959](#);

Kalomo District by [General Notice No. 2537 of 1961](#).

Third Schedule (Section 35)**Trespass on uncultivated land**

Description of animal	If land enclosed with sufficient fence	If land not so enclosed
	Ngwee	Ngwee
Horses, Cattle and Pigs, per head	5	2
Goats and Sheep, not exceeding three hundred in number, per head	1	1/2
Goats and Sheep, if over three hundred in number, then for every goat or sheep in excess of three hundred, per head	1/2	1/4

Fourth Schedule (Section 56)**Pound fees**

	Fee units
Horses, Cattle and Pigs, per head	1
Sheep and Goats, per head	1

[As amended by Act [No. 13 of 1994](#)]

Fifth Schedule (Section 57)**Sustenance fees**

	Fee units
Horses, Cattle and Pigs, per head per diem	120
after ten days	751
Sheep and Goats, per head per diem	1
after ten days	1

[As amended by Act [No. 13 of 1994](#)]

Sixth Schedule (Section 58)**Fees for animals to be separately herded**

	Fee units
For every Stallion, per diem	1
For every Bull, per diem	1
For every Boar, per diem	1
For every Sheep-ram, Goat-ram, or other separated animal, per diem	1

The fees chargeable under the First, Second, Third, Fifth and Sixth Schedules have been doubled, and under the Fourth Schedule trebled, in the—

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Kalomo District by [General Notice No. 2537 of 1961](#).

[As amended by Act [No. 13 of 1994](#)]