

THE CATTLE-TRESPASS ACT, 1871

(ACT NO. I OF 1871).

[13th January, 1871]

2 An act to consolidate and amend the law relating to Trespasses by Cattle.

Preamble WHEREAS it is expedient to consolidate and amend the law relating to trespass by cattle; It is enacted hereby follows:-

CHAPTER I

PRELIMINARY

Title and extent

1. (1) This Act may be called the Cattle-trespass Act, 1871; and

3[(2) It extends to the whole of Bangladesh.]

Repeal of Acts References to repealed Acts 2. [Repealed by the Repealing Act, 1938 (Act No. I of 1938).]

Interpretation- clause

3. In this Act,-

"officer of police" includes also village-watchmen, and

"cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids, and

“local authority” means anybody of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

"local fund" means any fund under the control or management of a local authority.

CHAPTER II

POUNDS AND POUND-KEEPERS

Establishment of pounds

4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Government, from time to time directs.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

Control of pounds Rates of charge for feeding impounded cattle

5. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Appointment of pound-keepers

6. The Government shall appoint a pound-keeper for every pound.

Pound-keepers may hold other offices Any pound-keeper may hold simultaneously any other office under the Government.

Pound-keepers to be “public servants” Every pound-keeper shall be deemed to be a public servant within the meaning of the 4[* * *] Penal Code.

To keep registers and furnish returns

7. Every pound-keeper shall keep such registers and furnish such returns as the Government from time to time directs.

To register seizures

8. When cattle are brought to a pound, the pound-keeper shall enter in his register,-

- (a) the number and description of the animals,
- (b) the day and hour on and at which they were so brought,
- (c) the name and residence of the seizer, and
- (d) the name and residence of the owner, if known,

and shall give the seizer or his agent a copy of the entry.

To take charge of and feed cattle

9. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

CHAPTER III

IMPOUNDING CATTLE

Cattle damaging land

10. The cultivator or occupier of any land,

or any person who has advanced cash for the cultivation of the crop or produce on any land,

or the vendee or mortgage of such crop or produce or any part thereof, may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situate.

Police to aid seizures All officers of police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescues from persons making such seizures.

Cattle damaging public roads, canals and embankments

11. Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like and officers of police, may seize or cause to be seized any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments or found straying thereon,

and shall send them or cause them to be sent within twenty-four hours to the nearest pound.

Fines for cattle impounded

12. For every head of cattle impounded as aforesaid, the pound-keepers shall levy a fine in accordance with the scale for the time being prescribed by the Government in this behalf by notification in the official Gazette. Different scales may be prescribed for different local areas. All fines so levied shall be sent to the Magistrate of the District through such officers as the Government may direct.

List of fines and charges for feeding A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound.

CHAPTER IV

DELIVERY OR SALE OF CATTLE

Procedure when owner claims the cattle and pays fines and charges

13. If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent, on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

Procedure if cattle be not claimed within a week

14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report to the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating□

(a) the number and description of the cattle,

(b) the place where they were seized,

(c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

Delivery to owner disputing legality of seizure but making deposit

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 20, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

Procedure when owner refuses or omits to pay the fines and expenses

16. If the owner or his agent appear and refuse or omit to pay or (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer at such place and time, and subject to such conditions, as are referred to in section 14.

Deduction of fines and expenses The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of unsold cattle and balance of proceeds The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing-

(a) the number of cattle seized,

(b) the time during which they have been impounded,

(c) the amount of fines and charges incurred,

(d) the number of cattle sold,

(e) the proceeds of sale, and

(f) the manner in which those proceeds have been disposed of.

Receipt The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

Disposal of fines, expenses and surplus proceeds of sale

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, be deemed to hold them as part of the revenues of the 5[Government].

[Repealed] 18. [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]

Officers and pound-keepers not to purchase cattle at sales under Act

19. No officer of police or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle as a sale under this Act.

Pound-keepers when not to release impounded cattle No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

CHAPTER V

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION

Power to make complaints

20. Any person whose cattle have been seized under this Act, or, having been so seized, have detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Procedure on complaint

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

Compensation for illegal seizure or detention

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred Taka, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle,

Release of cattle and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Recovery of compensation

23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate.

CHAPTER VI

PENALTIES

Penalty for forcibly opposing the seizure of cattle or rescuing the same

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred Taka, or with both.

Recovery of penalty for mischief committed by causing cattle to trespass

25. Any fine imposed under the next following section or for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops or public roads by pigs

26. Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten Taka.

The Government, by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it has reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "fifty taka" were substituted for the words "ten taka" or as if there were both such reference and such substitution.

Penalty on pound-keeper failing to perform duties

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty Taka.

Such fines may be recovered by deductions from the pound-keeper's salary.

Application of fines recovered under sections 25, 26 or 27

28. All fines recovered under section 25, section 26 or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

CHAPTER VII

SUITS FOR COMPENSATION

Saving of right to sue for compensation

29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court.

Set-off

30. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

CHAPTER VIII

SUPPLEMENTAL

Power for Government to transfer certain functions to local authority and direct credit of surplus receipts to local fund

31. The Government may, from time to time, by notification in the official Gazette,□

(a) transfer to any local authority within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Government or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority.

Power for Magistrate of the District to appoint the Chairman of Municipalities or President, of Union Boards to discharge the functions of an officer under section 14

32.(1) The Magistrate of the District may appoint for the purposes of this Act, a Chairman of a 6[Paurashava] constituted under the 7[Municipal Administration Ordinance, 1960]; or a President of a 8[Union Parishad] constituted under 9[Bangladesh Local Council and Municipal Committee (Dissolution and Administration) Order, 1972]; to discharge the functions of an officer appointed under section 14, in respect of cattle impounded within the area included within that 10[Paurashava] or within the area subject to the jurisdiction of that Union Parishad, as the case may be:

Provided that a Chairman or President so appointed may, by general or special order, delegate to the Vice-Chairman of such 11[Paurashava] or the Vice-President of such 12[Union Parishad] as the case may be, all or any of the functions of an officer appointed under section 14 which such Chairman or President is entitled to discharge and may at any time withdraw the same.

(2) A Chairman or President so appointed, or a Vice-Chairman or Vice-President to whom the Chairman or the President, as the case may be, may have delegated all or any of the functions referred to in sub-section (1), shall, not, directly or indirectly, purchase any cattle at a sale under this Act.

Delegation of certain powers of the Magistrate of the District

33. The Magistrate of the District may, by an order in writing, delegate the powers specified below to any Magistrate subordinate to him: □

(1) the determination of the manner of disposal or unclaimed impounded cattle under the proviso to section 14; and

(2) the settlement of claims in respect of surplus unclaimed proceeds of the sale of cattle held in deposit under section 17.

1 Throughout this Act, except otherwise provided, the words “Government” and “Taka” were substituted, for the words “Provincial Government” and “rupees” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

2 Throughout this Act, except otherwise provided, the words “Government” and “Taka” were substituted, for the words “Provincial Government” and “rupees” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

3 Sub-section (2) was substituted, for the former sub-section (2) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

4 The word “Pakistan” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

5 The word “Government” was substituted, for the word “Province” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

6 The word “Paurashava” was substituted, for the word “Municipality” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

7 The words Comma and figure “Municipal Administration Ordinance, 1960” were substituted, for the words “Bengal Municipal Act” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

8 The words “Union Parishad” were substituted, for the words “Union Board” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

9 The words, brackets, comma and figure “Bangladesh Local Council and Municipal Committee (Dissolution and Administration) Order, 1972” were substituted, for the words “Bengal Village self-Government Act, 1919” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

10 The word “Paurashava” was substituted, for the word “Municipality” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

11 The word “Paurashava” was substituted, for the word “Municipality” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

12 The words “Union Parishad” were substituted, for the words “Union Board” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).