

**MINISTRY OF REGIONAL AND LOCAL
GOVERNMENT AND HOUSING**

No. 191

1994

MODEL POUND REGULATIONS

The Minister has under section 94 of the Local Authorities Act, 1992 (Act 23 of 1992), made the regulations set out in the Schedule.

SCHEDULE

1. In these regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Authorities Act, 1992, shall bear that meaning and -

“Act” means the Local Authorities Act, 1992 (Act 23 of 1992);

“animal” means any horse, donkey, mule, cattle, sheep, goat or pig;

“council” means any town council or village council concerned;

“owner” in relation to an animal, includes any person in possession of or charged with the care, custody or control of that animal; and

“property” means any erf or premises situated in the local authority area concerned.

2. The council shall at a place within its local authority area which it deems suitable, provide and maintain a pound which is strong, secure and large enough to contain and safely keep impounded animals and which has such kraals and enclosures as may be necessary for the isolation of any animal which must be kept in isolation in terms of these regulations.

3. For each pound provided the council shall appoint a poundmaster who shall be responsible for the management of the pound in accordance with and subject to the provisions of these regulations.

4. (1) Any member of the Namibian Police Force or employee of the council who finds an animal trespassing or any property which is at large, shall take or cause that animal to be taken to a pound, and any owner or occupier of property who finds an animal trespassing on his or her property, may take or cause that animal to be taken to the pound.

(2) (a) Notwithstanding anything to the contrary in these regulations contained, but subject to paragraph (b), the council may by resolution determine that no person shall impound an animal which has trespassed on his or her property if the property is not adequately fenced.

(b) A resolution referred to in paragraph (a) shall only come into effect after the council has published it by notice in the *Gazette* and once a week for four consecutive weeks in a newspaper circulating in the local authority area, and the date on which the resolution comes into operation is also mentioned in the notice.

(c) For the purposes of this regulation, property shall only be regarded as being adequately fenced if it is enclosed with a fence which is at least 1,25 metres high and where the property is enclosed with a wire fence, the fence consists of at least 5 horizontal strands, with gates that can be closed.

5. (1) Any person who catches an animal for the purpose of having it impounded shall deliver that animal to the pound within 24 hours after it was caught.

(2) No person shall detain an animal which he or she has caught trespassing on his or her or any other property, except for the purpose referred to in subregulation (1).

(3) Any person who contravenes the provisions of subregulation (2) or uses, abuses, ill-treats or overdrives any animal detained by him or her or allows any person to do so, shall be guilty of an offence.

6. Any person who by threat of violence or otherwise frees or attempts to free an animal from the person who is in control of that animal whilst it is being taken to the pound in accordance with these regulations or frees or attempts to free an animal after it has been impounded in accordance with these regulations by the poundmaster, shall be guilty of an offence.

7. Any person who causes an animal to be impounded contrary to the provisions of these regulations shall be guilty of an offence and shall, in addition to the penalties prescribed in regulation 40, be liable for all damages and shall compensate the owner of such animal for any loss and costs occasioned by such impoundage.

8. (1) The poundmaster shall, subject to such resolution as the council may pass in terms of regulation 4(2)(a), and subject to subregulation (2), receive all animals delivered at the pound during the hours of business thereof and detain them until they are released or sold in accordance with these regulations.

- (2) (a) Where the poundmaster is of the opinion that an animal, when it is impounded, is so diseased or injured or is in such poor physical condition that it is unlikely that such animal, if it were sold, would realise enough money to cover its pound fees as well as the expenses in respect of the sale thereof, he or she shall summon the officer in command of the local police station or two adult persons whom he or she considers to be reliable and of sound judgement, to examine that animal.
- (b) If the officer or persons certify that the condition of the said animal is as described in paragraph (a) the poundmaster may, if it is not released within three days after its impoundage, destroy that animal in a humane as possible way.

9. The daily hours of business of each pound shall be from 07:00 until 15:30, Saturdays, Sundays and public holidays excluded.

10. (1) The poundmaster shall keep a pound book in which he or she shall record the following particulars in respect of each animal impounded, namely -

- (a) the type of animal and its estimated age;
- (b) the distinguishing colours and marks it bears;
- (c) the name and address of the person by whom it was impounded;
- (d) the address or description of the property on which the animal trespassed or was found;
- (e) the name and address, if known, of the owner or suspected owner of the animal;
- (f) if the animal was sold, the name and address of the purchaser and the sum realised by such sale;

- (g) the dates on which the animal was impounded and released or sold, respectively;
 - (h) all fees and expenses accumulated in respect of the animal in terms of these regulations; and
 - (i) all claims for damages filed with him or her and if paid, the date and amount of such payment.
- (2) The poundmaster or, in his or her absence, the person in charge of the pound, shall issue to the person delivering an animal for impoundage, a certificate in the form contained in the Annexure.
11. (1) (a) The poundmaster shall pay to the person who delivers or causes to deliver an animal to the pound, a driving fee of not less than N\$0,50 per animal, irrespective of the distance driven, but, where that person is a member of the Namibian Police Force or an employee of the council, such fees shall be paid to the council in accordance with the prescribed tariffs.
- (b) No driving fees shall be payable for the return journey of the person who has driven the animal to the pound.
 - (c) No additional driving fees shall be payable where the animal has been driven to the pound by more than one person.
 - (d) The poundmaster shall obtain a receipt from the person to whom he or she has paid driving fees.
- (2) (a) The driving fees that have been paid by the poundmaster in terms of subregulation (1), together with such other moneys as may be due under these regulations, shall be recoverable from the owner of the animal concerned.
- (b) Where animals which belong to different owners have been driven to the pound in one group, a pro rata portion of the driving fees shall be paid by each owner.
3. (a) If at any time, while an animal is being driven to the pound, the owner of such animal or any person on his or her behalf, tenders to pay to the person driving that animal the amounts payable in respect of driving fees and damages, if any, such owner shall against payment of the amounts concerned be entitled to the immediate release of the animal.
- (b) A person who refuses to release an animal under the circumstances referred to in paragraph (a) shall be guilty of an offence.
12. (1) Where the name and address of the owner of an impounded animal is known to him or her, the poundmaster shall forthwith by letter, delivered personally or sent by registered post, give notice to the owner of the fact that his or her animal has been impounded, and he or she shall also in that letter state the amount which, as at the date of the notice, is payable for the release of the animal, as well as the further fees that will thereafter be levied daily in respect of the animal.

(2) Whenever a stallion or bull is impounded, the poundmaster shall forthwith, unless the name and address of the owner is known to him or her, cause an advertisement, setting forth the following information, to be published in a newspaper circulating in the local authority area -

- (a) a short description of the animal;
- (b) the estimated value of the animal;
- (c) the date on which the animal was impounded;
- (d) the name and address of the person by whom it was impounded; and
- (e) that the animal will be sold if it is not redeemed by its owner within 30 days from the date of publication of the advertisement.

(3) The costs incurred in respect of the publication of an advertisement in terms of subregulation (2) shall be recovered from the owner of the animal concerned or, if it is sold, from the proceeds of the sale.

13. (1) The owner or occupier (including the council) on whose property an animal has trespassed, may claim compensation in accordance with the provisions of these regulations from the owner of the animal for any damage to the property concerned caused by such animal.

(2) Where the owner of an animal referred to in subregulation (1) is unknown or cannot be traced, the damages caused by the animal shall be paid from the nett proceeds in accordance with regulation 28(1)(b) if the animal is sold.

14. (1) The owner or occupier of property (excluding the council) who wishes to claim damages as contemplated in regulation 13(1) shall, when delivering the animal to the pound, hand to the poundmaster a notice wherein he or she declares his or her intention to lodge a claim.

(2) Subject to regulation 15(3), where the poundmaster receives a notice in terms of subregulation (1), he or she shall not release the animal to which the notice relates until 24 hours expired after the animal was impounded.

15. (1) The owner or occupier of property (excluding the council) who wishes to claim damages as contemplated in regulation 13(1), or his or her representative, shall, in co-operation with two persons with no interest in the matter, inspect the property concerned and prepare a written memorandum, wherein -

- (a) the nature and extent of the damage which has allegedly been caused by the animal; and
- (b) the amount assessed by them as compensation for the damage;

shall be fully set out.

- (2) (a) Where the owner of the animal is known to him or her, the owner or occupier of the property shall give prior notice of the time and place of such inspection to the owner and afford him or her the opportunity to be present.
- (b) If at the inspection the owner of the animal admits liability for the damage, while he or she -
- (i) accepts the amount assessed in terms of subregulation (1) as correct;
 - (ii) reaches an agreement with the owner or occupier of the property with regard to the amount thereof and pays it; or
 - (iii) arranges for the payment thereof with the owner or occupier of the property, those facts, with full particulars, shall also be recorded in the written memorandum and signed by both parties.
- (c) If the damages are paid directly to the owner or occupier of the property in terms of paragraph (b), he or she shall issue a receipt in respect of such payment to the owner of the animal.

(3) Notwithstanding regulation 14(2), the owner or occupier of the property shall, within 24 hours after the animal was impounded, deliver the written memorandum prepared in terms of subregulation (1) to the poundmaster, but if the memorandum is delivered to the poundmaster after the period of 24 hours has expired and the animal is at that time not yet released, the poundmaster shall accept the memorandum and shall not release the animal except in accordance with regulation 19 or 20.

(4) Where the owner of the animal has not attended the inspection referred to in subregulation (1) and if his or her name ~~and~~ address is known to him or her, the poundmaster shall immediately upon receipt of the written memorandum, by letter, delivered to him or her personally or sent by registered post, give notice to the owner of the findings of the persons who held the inspection and give full particulars of the damages as determined by them.

16. The council shall, if it wishes to claim damages as contemplated in regulation 13(1), first cause an inspection of the damaged property to be held by the poundmaster or any other authorised employee of the council and two persons with no interest in the matter and the provisions of regulation 15 shall *mutatis mutandis* apply.

17. (1) The owner or occupier of property (including the council), shall pay each of the persons assisting with the inspection and preparation of the written memorandum in terms of regulation 15 or 16, except the poundmaster or an employee of the council, a fee of not less than N\$10,00 for their services.

(2) The amount paid in terms of subregulation (1) may be recovered as part of the damages in terms of these regulations.

18. Where a claim for damages is disputed by the owner of the animal in that such owner denies liability for any damages or admits liability but disputes the amount claimed, the poundmaster shall forthwith by letter, delivered personally or sent by registered post, give notice to the owner or occupier of the property concerned (including the council) of the fact that the owner of the animal is denying liability or is disputing the amount claimed, as the case may be.

19. Subject to regulation 20, the poundmaster shall only release an impounded animal when -

- (a) the fees due in terms of these regulations and calculated in accordance with the prescribed tariffs and all other expenses which accrued in terms of these regulations in respect of the animal; and
- (b) the amount in respect of damages, if any,

have been paid or it is proved to the satisfaction of the poundmaster that the amount in respect of damages has been paid directly to the owner or occupier of the property, or that an acceptable arrangement for the payment thereof has been made.

20. Where the owner of an animal disputes a claim for damages instituted in terms of these regulations, the poundmaster shall, notwithstanding the provisions of regulation 19, but on condition that the fees and expenses referred to in paragraph (a) of that regulation have been paid, release the animal if, pending settlement of the dispute, the owner of the animal give security to the satisfaction of the poundmaster for the payment of the amount claimed.

21. The poundmaster may, before he or she releases an animal, require that the person claiming such release prove by affidavit or otherwise to the satisfaction of the poundmaster, that he or she is the owner of the animal or has been authorised by the owner to claim its release.

22. Subject to regulation 25, a stallion or bull that is not released within 30 days from the date of publication of the advertisement in terms of regulation 12(2), and any other animal not released within 7 days from the date on which it was impounded, shall be sold in accordance with the provisions of regulation 23 or 24, as the case may be.

23. (1) In the case of horses or a cattle the poundmaster shall, after the expiry of the relevant period referred to in regulation 22, by notice -

- (a) published once in the *Gazette* and once per week for two consecutive weeks in a newspaper circulating in the local authority area; and
- (b) affixed in a conspicuous place at the pound and the offices of the council,

advertise that the animal is to be sold by public auction if it is not claimed within the time specified in the notice.

(2) The notice referred to in subregulation (1) shall set forth the following information, namely -

- (a) the place where, and the date and time when, the sale will be held;
- (b) a description of the animal to be sold; and
- (c) the date on which the animal was impounded and the name and address of the person by whom it was impounded.

(3) The date of the sale shall not be less than 21 days after the date upon which the animal was impounded and not less than seven days after the publication of the notice in the *Gazette* and the second publication in the newspaper in terms of subregulation (1).

24. (1) Any donkey, mule, sheep, goat or pig may, after the expiry of the period of seven days referred to in regulation 22 and provided that the provisions of subregulation (2) have been complied with, be sold at the first morning market or by public auction held at a public place which is centrally situated in the local authority area.

(2) The poundmaster shall advertise such sale by affixing, not later than four days before the date of the sale a notice of sale containing all such information as required by regulation 23(2), on the notice board at the offices of the council and at or as near as possible to the place where the sale is actually taking place.

(3) The poundmaster may, notwithstanding the provisions of subregulation (1), sell any donkey, mule, sheep, goat or pig on a public auction held in terms of regulation 23, on condition it has been advertised as such in the notice of sale referred to in subregulation (2).

25. Notwithstanding regulation 22, where the owner of an impounded animal has complied with the provisions of regulation 19 or 20 before the animal is sold, the poundmaster shall release the animal to the owner.

26. (1) The poundmaster or any person designated by the council for that purpose shall act as auctioneer at a sale taking place in terms of these regulations.

(2) At any sale in terms of these regulations all animals shall be sold individually, except that -

- (a) the offspring of an animal which is still dependent on that animal for its food, shall be sold together with that animal;
- (b) sheep or goats may be sold together in lots of not more than 10.

(3) The poundmaster shall not, whether personally or through an agent, purchase an animal which is being sold in terms of these regulations.

27. The council shall receive a commission in accordance with the prescribed tariffs on the gross proceeds of each animal which is sold in terms of these regulations.

28. (1) The proceeds from the sale of an animal in terms of these regulations, shall be applied -

- (a) for the payment of all fees owed to the council calculated in accordance with the prescribed tariffs and all other expenses in respect of that animal recoverable by the council in terms of these regulations; and
- (b) thereafter, in settlement of any claim for damages instituted in terms of these regulations and in respect of which no dispute is existing between the owner of the animal and the claimant concerned.

(2) Where two or more competing claims are to be considered for settlement in terms of subregulation (1)(b), any surplus that is available under that paragraph, but which is insufficient to settle all the claims concerned in full, shall be distributed pro rata amongst the claimants.

(3) Any surplus that remains after the settlements referred to in subregulation (2), shall be deposited in the council's bank account.

29. (1) Where the notice of sale referred to in regulation 23 relates to more than one animal, the expenses incurred in connection with the publication of such notice shall be recovered, subject to the provisions of subregulation (2), in equal parts from the proceeds of each animal sold.

(2) Where an animal to which a notice of sale relates is released in terms of these regulations at any time before it is sold, the poundmaster shall recover, from the person redeeming the animal, an equal part of such costs which would have been recoverable in respect of that animal had it been sold.

30. (1) If at any time within six months after the sale of an animal in terms of these regulations, a person lays claim to the surplus to which a council is entitled in terms of regulation 28(3), or any part thereof, and the council is satisfied that -

- (a) the animal sold did belong to that person; or
- (b) that person is on any other ground entitled to it; and
- (c) no claim for damages of which notice has been given to the poundmaster in terms of these regulations, is pending,

the council shall pay such amount to the person concerned.

- (2) (a) Subject to paragraph (b), the right to claim payment of the surplus in terms of subregulation (1) prescribes six months after the animal was sold.

- (b) If at the time the animal was sold, a claim for damages in terms of these regulations has been instituted and that claim was disputed, the right to claim the surplus shall prescribe six months after the dispute was settled or three years after the animal was sold, whichever period is earliest.

(3) The Council may refuse to pay out any money claimed in terms of this regulation, unless an agreement of settlement or a court order is submitted as proof that the person who claims the money is entitled thereto.

(4) The surplus concerned becomes the property of the council upon prescription of the right to claim payment thereof in terms of this regulation.

31. Ownership in an animal sold in terms of these regulations shall pass on to the purchaser.

32. Any horses, donkeys, mules or cattle sold in terms of these regulations shall be branded with the council's registered brand before delivery to the purchaser.

33. (1) The poundmaster shall take proper care of all impounded animals and ensure that they are at all times provided with sufficient grazing or fodder and water.

(2) The poundmaster shall not use, harness or ill-treat an impounded animal or allow any other person to use, harness or ill-treat such animal, but the poundmaster may milk a cow or she-goat.

(3) If any animal dies during its detention in the pound, the poundmaster shall immediately notify the chief executive officer thereof and record such fact in the pound book with a proper description of the animal concerned.

(4) Any poundmaster who fails to comply with this regulation shall be guilty of an offence.

34. The poundmaster shall keep all stallions and bulls above the age of two years, and all he-goats and rams above the age of six months, in a separate camp or kraal, or keep them tied up or isolate them from the other animals in the pound in any other way.

35. (1) If any animal, when it is delivered to the pound, or any impounded animal, is visibly infected or becomes infected with a disease which is contagious or which is likely to be dangerous to human life or to other impounded animals, or if the poundmaster has reasonable grounds to believe that it is so infected, he or she shall immediately place that animal in a separate camp or kraal removed from the other impounded animals or in any other effective manner isolate such animal from the other animals in the pound.

(2) The poundmaster shall immediately after he or she has isolated an animal as required in subregulation (1), summon a veterinarian to examine that animal or if a veterinarian is not available, immediately notify the chief executive officer.

(3) The chief executive officer shall, when he or she receives the notice in terms of subregulation (2), immediately cause an investigation to be conducted into the condition of that animal, and he or she may give such instructions to the poundmaster as to its disposal as he or she may deem fit, including an instruction that the animal be destroyed.

(4) The poundmaster shall carry out all instructions that are given to him or her by the veterinarian or the chief executive officer with regard to such animal.

36. All costs incurred by the council in respect of the services of a veterinarian, or in connection with any treatment given to an impounded animal, shall be recoverable from the owner of that animal, or if it is sold under these regulations, from the proceeds.

37. If the poundmaster at any time finds that an impounded animal is so wild or vicious that its detention might be dangerous to other animals in the pound, he or she shall immediately notify the chief executive officer and the provisions of regulations 35(3) and (4) shall *mutatis mutandis* apply.

38. When an impounded animal dies or is destroyed in terms of these regulations, the poundmaster shall dispose of the carcass in such a manner as the council directs.

39. (1) The council shall levy the fees in accordance with the prescribed tariffs in respect of the services rendered in terms of these regulations.

(2) The council shall recover the fees referred to in subregulation (1) and all other expenses referred to in these regulations or incurred in terms thereof, from the owner of the animal in respect of which it is payable or, if the animal is sold, from the proceeds.

(3) If the proceeds from the sale of a particular animal are insufficient to cover the charges referred to in subregulations (1) and (2), the council shall be entitled to recover the shortfall from the owner of such animal.

40. (1) Any person, except the poundmaster, who is convicted of an offence under these regulations, shall be liable -

- (a) on a first conviction, to a fine not exceeding N\$100,00;
- (b) on a second or subsequent conviction for the same offence, to a fine not exceeding N\$200,00 or imprisonment for a period not exceeding three months, or to both such fine and imprisonment, or
- (c) in case of a continuing offence, if the commission of the crime continues after the conviction referred to in paragraph (a) or (b), to a further fine not exceeding N\$4,00 a day, for each day the offence continues.

(2) Where a poundmaster is convicted of an offence under these regulations, he or she shall be liable to a fine not exceeding N\$20,00.

41. All regulations made in terms of section 24 of Proclamation 160 of 1975 in relation to the impounding of animals, section 45(3) of Proclamation R.117 of 1977 and the Peri-Urban Development Board Pound Regulations promulgated by Government Notice 70 of 1988, and all amendments thereof, are hereby repealed in so far as it applied to the council, but excluding any provision prescribing any fees payable to the council.

ANNEXURE

CERTIFICATE WITH DETAILS OF IMPOUNDED ANIMALS

Description of animals:

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Number of animals:

Name and address of person who sent animals:

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.....

Place where animals were found:

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Name and address of person who delivers animals:

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.....

.....
Signature of Person who delivers Animals

.....
Poundmaster

.....
Date

.....
Place

SCHEDULE B

POUND FEES

1. Detention fees:

- | | |
|---|---------|
| (a) In respect of all animals except sheep and goats, per animal per day or part of a day | N\$5,00 |
| (b) Per sheep or goat per day or part of a day | N\$2,00 |

2. Grazing fees:

- | | |
|---|---------|
| (a) In respect of all animals except sheep and goats, per animal per day or part of a day | N\$3,00 |
| (b) Per sheep or goat per day or part of a day | N\$0,75 |

3. Feeding fees:

- | | |
|---|---------|
| (a) In respect of animals except sheep and goats, per animal per day or part of a day | N\$7,50 |
| (b) Per sheep or goat per day or part of a day | N\$2,00 |

4. Driving fees:

- | | |
|--|---------|
| Per animal irrespective of the distance driven | N\$0,50 |
|--|---------|

5. Fees for branding in terms of regulation 32:

- | | |
|------------------|---------|
| Per animal | N\$1,00 |
|------------------|---------|
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