

**LAWS OF FIJI**

**CHAPTER 165**

**POUND**

TABLE OF PROVISIONS

SECTION

1. Short title
2. Interpretation
3. Establishment of pounds
4. Poundkeeper and management of pounds
5. Animals trespassing may be seized and taken to pound
6. Animals wandering in public place
7. Destruction of trespassing pigs and goats
8. Person impounding animal to answer questions
9. Notice of impounding to be given to owner
10. Where owner is unknown
11. Pound breach
12. Penalty for beating, etc., impounded animals
13. Pound fees
14. As to sale
15. Power to destroy animals
16. Public notice of sale
17. Disposal of proceeds of sale
18. Mode of conducting sales
19. Regulations
20. Records to be kept by poundkeeper
21. Right of private action not barred

**POUND**

*Ordinances Nos. 7 of 1877, 19 of 1887, 3 of 1921, 39 of 1931, 11 of 1933, 26 of 1943, 18 of 1944, 2 of 1945, 10 of 1957, 20 of 1959, 37 of 1966, Legal Notices Nos. 112 of 1970, 118 of 1970, Act No. 14 of 1975, Legal Notice No. 93 of 1979*

AN ACT RELATING TO THE TRESPASSING OF ANIMALS

[23 February 1877]

*Short title*

1. This Act may be cited as the Pound Act.

*Interpretation*

2. In this Act, the term "poundable animal" means any horse, mare, gelding, colt, filly, ass,

mule, bull, cow, ox, steer, heifer, calf, goat, kid, sheep, lamb, hog, sow, pig or any other great or small cattle.

*Establishment of pounds*

3. It shall be lawful for the Commissioner of any Division in which there are no pounds or an insufficient number of pounds to direct the establishment therein of such pounds as he thinks necessary. Such pounds shall be erected at the expense of and be the property of the Division, town or village within which they are erected and the establishment of any such pound shall be notified in the Gazette:

Provided that in the instance of any city or town all existing pounds and all pounds hereafter established within the boundary of any such city or town shall be built and maintained by the city or town council of such city or town from the general revenue of such city or town and the said city or town council shall have full power to establish new pounds and to abolish existing ones within the boundaries of its city or town as often as it may deem it expedient to do so.

*(Amended by Ordinance 19 of 1887, s. 2; 2 of 1945, s. 7; 14 of 1975, s. 37.)*

*Poundkeeper and management of pounds*

4.—(1) The Commissioner in every Division shall have the management and direction of all pounds in his Division and shall appoint a poundkeeper to every pound and shall have power to fix the remuneration to be paid to such poundkeeper.

(2) Such remuneration may be either by way of salary or by the retention of the whole or such proportion of the fees chargeable under this Act as the Minister responsible for finance may, subject to the provisions of this Act, from time to time authorise.

(3) Every poundkeeper, in addition to his salary, if any, shall be entitled to demand the prescribed pound fees, which he shall once in every month account for to the Commissioner of the Division. The balance of such pound fees after any deductions authorised by subsection (2) shall be paid by the Commissioner into the Consolidated Fund:

Provided that in the case of any city or town, the city or town council respectively shall appoint the poundkeepers for all pounds within the boundaries of such city or town and make whatever arrangement it deems best as to the remuneration, if any, to be paid to such poundkeeper, and all fees received by such poundkeeper under the provisions of this Act shall be paid over by such poundkeeper to the city or town council as the case may be and shall go into the general revenue of such city or town.

*(Substituted by Ordinance 10 of 1957, s. 2; amended by Ordinance 37 of 1966; Legal Notice 118 of 1970; Act 14 of 1975, s. 37.)*

*Animals trespassing may be seized and taken to pound*

5. The owner or occupier of any cultivated or pasture land whether enclosed or unenclosed or of any enclosed land whatsoever or any person authorised by him may seize any poundable animal found trespassing on such land and may send or take every such animal to the nearest pound to be detained and dealt with according to this Act:

Provided that—

(a) the owner or occupier of the land trespassed upon may secure and keep any animal seized under this section before sending the same to the pound for any time not exceeding four days after the day of seizure;

(b) when any animal has been seized under this section, if the owner of such animal or any person lawfully authorised by him at any time before such animal is received into the pound pays for the use of the owner or occupier of the land trespassed upon the prescribed seizure fee, the person having charge of such animal shall, upon such payment being made, deliver the animal to the person making the payment; and

(c) if the same animal be found trespassing on the same land more than once and such trespass shall take place within fourteen days after a preceding one, there may be charged for the second and every other such trespass twice the amount of the prescribed seizure fees.

*(Amended by Ordinance 37 of 1966, s. 54.)*

*Animals wandering in public place*

**6.** Any poundable animal found tethered, wandering, straying or lying in any public place, street, square, quay, wharf or highway may be seized and sent or taken to the pound by any person finding the same, but no seizure fee shall be payable in respect of any such animal.

*Destruction of trespassing pigs and goats*

**7.** The owner or occupier of any cultivated land whether enclosed or unenclosed or of any enclosed land whatsoever or any person authorised by him may shoot or kill any hog, pig, sow, goat or kid found trespassing on such land and, if the owner of the animal does not claim the same within six hours after it is killed, may bury the carcass.

*Person impounding animal to answer questions*

**8.** When any animal is brought to any pound it shall be the duty of the poundkeeper to make, and of the person bringing the animal to answer, all such inquiries as are likely to make known the owner thereof. Any person bringing an animal to the pound who upon any inquiry being made of him pursuant to this section does not according to the best of his knowledge, remembrance, information and belief truly answer such inquiry shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$10 or in default to imprisonment not exceeding three months.

*(Amended by Ordinance 2 of 1945, s. 7.)*

*Notice of impounding to be given to owner*

**9.** When any animal is impounded the poundkeeper shall give notice through the police station of the town or Division or otherwise of such animal being impounded to the owner or person having the charge of the animal in all cases in which such poundkeeper by any means obtains sufficient information to enable him to give such notice. Any poundkeeper who omits to give notice as required by this section shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$10 or in default to imprisonment not exceeding three

months. A poundkeeper who gives notice under this section shall be entitled to receive in respect of such notice the prescribed sum.

*(Amended by Ordinance 2 of 1945, s. 7; 37 of 1966, s. 54.)*

*Where owner is unknown*

**10.** If at the expiration of the day after any animal is impounded the poundkeeper is unable to ascertain who is the owner or person having the charge of such animal, such poundkeeper shall cause a notice of the impounding and a description of the animal to be posted at a police station of the Division in which the pound is situated and at any other place where the Commissioner of the Division directs. A poundkeeper who omits to cause to be posted the notices required by this section shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$10 or in default to imprisonment not exceeding three months.

*(Amended by Ordinance 2 of 1945, s. 7.)*

*Pound breach*

**11.** Any person who rescues or attempts to rescue any animal while in or being taken to any pound or breaks or injures any pound or does or aids or abets the doing of any act whereby any animal impounded may escape or be unlawfully liberated shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$10 or imprisonment not exceeding one month.

*(Amended by Ordinance 18 of 1944, s. 415.)*

*Penalty for beating, etc., impounded animals*

**12.** Any poundkeeper who cruelly beats, starves or otherwise illtreats or who wilfully injures or damages any animal in his charge shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$20 or imprisonment not exceeding two months.

*Pound fees*

**13.—(1)** Any animal received into a pound shall be detained until sold under the provisions of this Act, unless before the time of such sale the prescribed pound fees and, where payable, the prescribed seizure fee and distance fee are paid to the poundkeeper.

**(2)** The poundkeeper shall pay on demand the whole of such seizure fee and distance fee to the person whose land was trespassed upon, if he or any person authorised on his behalf attends and demands the same within one month from the receipt of such fees by the poundkeeper.

**(3)** In the event of no such demand being made from the poundkeeper as is provided by subsection (2), the seizure fee and distance fee shall be dealt with as they would be under the provisions of section 17 in the absence of a demand as provided for by that section.

*(Substituted by Ordinance 10 of 1957, s. 3; subsec. (1) amended by Ordinance 37 of 1966, s. 54, Legal Notice 93 of 1979; subsec. (1) and (2) amended by Legal Notice 93 of 1979.)*

*As to sale*

**14.** After public notice of impounding as aforesaid shall have been given, the keeper of any

pound may, on such days as the Commissioner of the Division shall from time to time direct, put up for sale by public auction any animal which has been detained for more than ten days exclusive of the days of seizure and sale and sell and deliver such animal to the best bidder on receiving the amount of the bidding in cash and, if the amount so bid be not forthwith paid, may again put up the animal for sale:

Provided that—

(a) the Commissioner shall before giving such directions satisfy himself that the keeper has complied with the provisions of this Act touching the animal so impounded;

(b) the Commissioner may, if he shall see fit, direct some person other than the poundkeeper to put up and sell any animal impounded notwithstanding that such person may not have taken out a licence as an auctioneer.

*Power to destroy animals*

**15.** Where any poundable animal has been put up for sale in the manner provided for in section **14** and is not sold, a district officer of the Division in which the animal is impounded or such other officer as may be appointed by the Commissioner may cause it to be destroyed.  
*(Inserted by Ordinance 20 of 1959, s. 3.)*

*Public notice of sale*

**16.** Public notice of every sale shall be given in such manner as the Commissioner of the Division may from time to time direct.

*Disposal of proceeds of sale*

**17.**—(1) Out of the moneys received by any such sale the pound-keeper shall in the first place deduct the pound fees and out of the surplus shall pay on demand the seizure fee to the person whose land was trespassed upon when he attends and demands the same, and shall pay the balance of such surplus, if any, to any person known to be the owner of the animal and who attends and demands such balance:

Provided that if no person having authority to receive such surplus or the balance of such surplus attends to demand the same before the expiration of the day of sale, the poundkeeper shall forthwith pay such surplus or the portion thereof remaining in his hands to the Commissioner of the Division in which the pound is situated to be kept by him until the person or persons respectively entitled thereto appear before such Commissioner and prove their claims to the same.

(2) If at the expiration of twelve months after any sale under this section the Commissioner has in his hands any portion of the moneys received on account of any such sale, he shall pay the same over to the Chief Accountant for payment into the Consolidated Fund.

*Mode of conducting sales*

**18.** All such sales as aforesaid shall commence at the hour of noon, and not more than one

horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, steer, heifer or calf shall be offered for sale in one lot, and neither the person impounding the aforesaid or any other animals nor the keeper of the pound (or other person selling) nor the Commissioner who made the order for the sale thereof shall, either personally or by any other person, purchase any animal so offered for sale or any interest therein, and any person so offending shall be liable to a fine of \$10 over and above the restitution to the owner of the animal so purchased.

### *Regulations*

**19.**—(1) The Minister may make regulations prescribing the fees to be charged in respect of any act, matter or thing done or required to be done under the provisions of this Act.

(2) A Commissioner of a Division may, with the approval of the Minister, make regulations prescribing the amount per day to be charged for the feeding of animals in pound, and copies of such regulations shall be posted in some conspicuous place at each pound and at such other places as such Commissioner may direct.

*(Substituted by Ordinance 37 of 1966, s. 54; Amended by Legal Notice 112 of 1970.)*

### *Records to be kept by poundkeeper*

**20.** Every poundkeeper shall keep such records as the Commissioner of the Division from time to time directs for describing the animals impounded, the owners of the same and the persons bringing the same to the pound, for specifying the moneys due or received in respect of any animal and the disposal of all moneys received by such poundkeeper, and for registering such other matters as the Commissioner from time to time directs.

### *Right of private action not barred*

**21.** The remedies given by this Act in respect of animals trespassing shall be in addition to and not in derogation of any remedy by action or suit to which any person may be entitled in respect of any such trespass.

*Controlled by Ministry of Primary Industries*

## **Subsidiary Legislation**

### **CHAPTER 165**

### **POUND**

### **SECTION 19—POUND REGULATIONS**

### **TABLE OF PROVISIONS**

#### **REGULATION**

**1.** Short title

**2.** Fees

Schedule—Fees