



## POUNDS ACT 1934

[Consolidated as at 1 July 2002  
on the authority of the Administrator  
and in accordance with  
the *Enactments Reprinting Act 1980*]

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## Pounds Act 1934

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An Act relating to the impounding of stock

### Short title

1. This Act may be cited as the *Pounds Act 1934*.

### Definitions

2. In this Act, unless the contrary intention appears —
  - “owner” includes the agent, overseer, bailiff or manager for the owner, and, when used in reference to land, includes the occupier;
  - “police officer” means a member of the Police Force of Norfolk Island;
  - “pound” means a place appointed as a pound under section 3;
  - “poundkeeper” means a person appointed as a poundkeeper under section 3, and includes any person for the time being authorised to act as the poundkeeper of any pound;
  - “ranger” means —
    - (a) any person authorised in writing by the executive member to act as a forest ranger; or
    - (b) a ranger under the *Public Reserves Act 1997*;
  - “reserve” means any land declared to be a public reserve under the *Commons and Public Reserves Act 1936*;
  - “sheep” includes any ram, ewe, wether or lamb;
  - “stock” includes any entire horse, mare, gelding, colt, filly or foal, any bull, cow, ox, steer, heifer, calf, sheep, goat or swine.

### Appointment of pound and poundkeeper

3. (1) The executive member may, by notice published in the Gazette —

- (a) appoint as a pound any place reserved or set aside for the purpose of a pound;
- (b) close any pound;
- (c) appoint a person to be the poundkeeper of any pound; or
- (d) terminate the appointment of any poundkeeper.

(2) If a poundkeeper is absent or incapable through illness or any other cause to act as poundkeeper, the executive member may, in writing, authorise some other person to act as poundkeeper of the pound during the absence or incapacity of the poundkeeper.

#### **Maintenance of pound and care of stock**

4. (1) The pound shall be properly enclosed and shall be kept clean and in good repair by the poundkeeper thereof.

(2) Any stock for the time being impounded shall be supplied by the poundkeeper with a sufficiency of food and water.

(3) The poundkeeper may take or send any stock out of the pound at such times and to such places as he thinks fit for the purpose of grazing or watering.

#### **Books, notices, etc**

5. The poundkeeper shall keep such books and accounts, furnish such returns and give or post such notices as are prescribed.

#### **Powers of impounding stock**

6. (1) Any stock found trespassing upon any enclosed land may be impounded in a pound by the owner of such land or by any police officer.

(2) Any police officer may impound any stock found wandering, straying or lying upon any public road.

(3) Subsection 6(2) shall not apply to stock in respect of which a right of pasturage has been granted under the *Pasturage and Enclosure Act 1949*.

(4) The occupier of any enclosed land may seize and impound any stock found feeding off the enclosed land.

(5) Any person may seize and impound in a pound any stock unlawfully tethered or depastured in any road or public place.

**Owners of straying stock may be sued for damage done and stock may be destroyed**

7. (1) Any stock found straying, or at large, or tethered, or depastured, in any enclosed reserve, including reserves enclosed by fencing and gates across roads of access to adjoining properties, may be impounded by any police officer or ranger, and the owners of the stock may be sued for any damage done by the stock.

(2) In subsection 7(1) —

“enclosed reserve” includes an enclosed part of a reserve.

**Impounding unlawfully or in an unauthorised place**

8. Any person who impounds any stock unlawfully or in any place not authorised by this Act shall be guilty of an offence.

Penalty: 1 penalty unit.

**Poundage fees**

9. The poundkeeper shall demand and receive as poundage fees for stock impounded under the provisions of this Act such fees as are prescribed.

**Person impounding not liable to fees**

10. The person impounding any stock in a pound shall not be liable, by reason only of the impounding, to pay to the poundkeeper any fees or charges in respect of the stock impounded.

**Payment of fees on seizure for impounding**

11. If any stock have been lawfully seized by a poundkeeper, a police officer, or a ranger, for the purpose of being impounded, the owner of the stock or some person authorised by him may pay or tender to the poundkeeper, police officer, or ranger, who has seized the stock, such amount as would be payable in accordance with or in pursuance of the provisions of this Act as poundage fees for one day in respect of the stock seized, and thereupon the poundkeeper, police officer, or ranger, as the case may be, shall deliver up the stock seized to the owner or person paying or tendering the amount due.

**Notice to be given by person impounding stock**

12. Any person impounding any stock in a pound shall give notice to the poundkeeper thereof, specifying —

(a) the number and kinds of the stock impounded;

- (b) the name of the owner, if known, or of the supposed owner, or a statement that the owner is not known; and
- (c) the place where the stock were found trespassing.

#### **Duty and responsibility of poundkeeper**

**13. (1)** The poundkeeper of a pound shall receive into his custody any stock impounded in the pound, and shall detain them in his custody, whether in the pound or elsewhere according to the provisions of this Act.

**(2)** The poundkeeper shall be responsible to the owner of any stock impounded for loss or damage sustained by the poundkeeper's wilful act or neglect, or the wilful act or neglect of any of his agents or servants, but not otherwise, until the stock impounded are released, sold or otherwise disposed of according to the provisions of this Act.

#### **If stock not claimed, notice to be published**

**14.** If any stock impounded in a pound are not claimed by the owner or by some person on his behalf within 24 hours after being impounded, the poundkeeper shall, as soon as possible after the expiration of the 24 hours referred to, cause a notice of the impounding in the prescribed form to be posted at the pound and published in the Gazette.

#### **Stock to be released on payment of fees**

**15.** The poundkeeper of a pound, upon payment of the poundage fees in respect of any stock impounded, shall release those stock and deliver them to the owner thereof or to any other person duly authorised by the owner to receive them:

Provided that a poundkeeper shall not be required to release or deliver any stock except between the hours of sunrise and sunset.

#### **Power of sale of stock by poundkeeper**

**16.** If the release of any stock under section 15 is not obtained before the time fixed for the sale of those stock in the notice of impounding posted and published in accordance with section 14, the poundkeeper may sell the stock in the manner prescribed.

#### **Sale of impounded stock**

- 17.** Every sale of any impounded stock shall —
- (a) take place not less than 7 clear days after the notice of impounding referred to in section 14 has been posted and published as required by that section;

- (b) commence at such time as is fixed by the poundkeeper in the notice;
- (c) take place at the pound where the stock were impounded; and
- (d) be by auction to the highest bidder.

#### **Poundkeeper to act as auctioneer**

**18.** Every sale of any impounded stock shall be conducted by the poundkeeper acting as auctioneer:

Provided that, for the purpose of this section, a poundkeeper shall not be required to have an auctioneer's licence or to be licensed as an auctioneer under any law in force in Norfolk Island.

#### **Number of stock to be put up for auction in one lot**

**19.** At any sale of impounded stock any number of sheep, goats or pigs may be put up for auction in one lot, but not more than one animal of any other description shall be put up for auction in any one lot:

Provided that nothing in this section shall prevent a cow with her calf or mare with her foal from being put up for auction and sold in one lot.

#### **Persons forbidden to purchase impounded stock**

**20. (1)** Neither the person who impounded the stock nor the poundkeeper shall, either personally or by any other person, purchase any stock impounded in that pound.

Penalty: 1 penalty unit.

**(2)** In addition to any penalty imposed in pursuance of subsection 20(1), any person contravening the provisions of that subsection shall restore the stock purchased to the person who, if the sale had not taken place, would be entitled to receive them.

#### **Powers of poundkeeper where no bid made at sale**

**21.** Where any impounded stock have been offered for sale at a pound in accordance with the provisions of this Act and no bid for the stock has been made at that sale, the poundkeeper may —

- (a) fix another time for the sale of the stock by a further notice posted at the pound and published in the Gazette;
- (b) cause the stock to be destroyed; or
- (c) take over the stock as the property of the Administration and dispose of them as the executive member directs.

### **Disposal of proceeds of sale after deducting poundage fees**

**22.** Where any stock impounded have been sold by the poundkeeper under the provisions of this Act, the person who was the owner of the stock at the time of impounding may, if he makes a claim to the poundkeeper within 30 days after the date on which the stock were sold, obtain from the poundkeeper a written order authorising the Clerk of the Court of Petty Sessions, to pay to him the amount (if any) remaining after deducting from the proceeds of the sale of the stock the amount which might have been charged as poundage fees owing up to and including the date on which the stock were sold.

### **Pound rescues or breaches**

**23. (1)** Any person who —

- (a) unlawfully rescues or releases any stock lawfully impounded or seized for the purposes of being impounded;
- (b) damages any pound, whether any stock are impounded therein or not; or
- (c) commits any pound breach whereby any stock may escape from any pound,

shall be guilty of an offence.

Penalty: For an offence arising under paragraph 23(1)(a), 2 penalty units; for any other offence, 1 penalty unit.

**(2)** The Court may award the whole or any portion of the penalty to the owner of the stock, and, in addition may order the person convicted to pay such reasonable charges and expenses as the Court thinks fit.

**(3)** In any proceedings in respect of any offence against this section, proof that any stock so rescued, released or escaping are, within 48 hours of the time of the rescue, release or escape, found in the possession or on the lands or with any stock belonging to the owner of the stock, shall be prima facie evidence that the rescue, release or pound breach was made or committed by the owner.

### **Owners of straying stock liable to penalty**

**24.** If any stock are found straying, or at large, or tethered, or depastured, in any road or public place, the owner shall be liable to a penalty not exceeding 2 penalty units, unless a right of pasturage in respect of the stock granted to the owner under the *Pasturage and Enclosure Act 1949* is in force.

### Other legal remedies not affected by Act

25. Nothing contained in this Act shall deprive the owner of any land trespassed on by stock of any other legal remedies available, under the law in force in Norfolk Island on account of the trespass of stock.

### Regulations

26. The Administrator may make Regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed and which are necessary or convenient to be prescribed for carrying out and giving effect to this Act and in particular for prescribing —

- (a) the manner in which notices shall be given and posted;
- (b) the notices to be given by persons impounding stock;
- (c) the fees to be demanded and received as poundage fees; and
- (d) books, accounts and returns to be kept and furnished by a poundkeeper.

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### NOTES

The *Pounds Act 1934* as shown in this consolidation comprises Act No. 12 of 1934 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Pounds Act 1934</i>	12, 1934	6.10.34	
<i>Administration Act 1936</i>	14, 1936	16.12.36	
<i>Amendments Incorporation Act 1963</i>	2, 1963	28.3.63	
<i>Ordinances Revision Act 1964</i>	6, 1964	30.6.64	6
<i>Ordinances Citation Act 1976</i>	11, 1976	25.11.76	
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Ordinances Revision (Executive Members) Act 1980</i>	8, 1980	6.11.81	5

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Ordinances Revision (Decimal Currency) Act 1980</i>	31, 1980	15.1.81	
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>Public Reserves (Consequential Provisions) Act 1997</i>	9, 1997	23.6.97	

#### Table of Amendments

ad = added or inserted      am = amended      rep = repealed      rs = repealed and substituted

<b>Provisions affected</b>	<b>How affected</b>
1	am 2, 1963; 11, 1976
2	am 6, 1964; 13, 1979; 8, 1980; 9, 1997
3	am 6, 1964; 8, 1980
6	am 6, 1964; 11, 1976
7(1)	am 9, 1997
7(2)	ad 9, 1997
8	am 31, 1980; 9, 1985
11	am 9, 1997
14	am 6, 1964
16, 17	am 6, 1964
20	am 31, 1980; 9, 1985
21	am 6, 1964; 13, 1979; 8, 1980
22	am 14, 1936; 6, 1964
23	am 31, 1980; 9, 1985
24	am 6, 1964; 11, 1976; 31, 1980; 9, 1985
26	am 13, 1979

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