

## 5.1.2 Forests/timber

### 5.1.2.1 Northern Areas Cattle Trespass Act 1976 (Notification No.LA(RES)-NTF-9(1)/76 dated 20 September 1976)

#### THE NORTHERN AREA, CATTLE TRESPASS ACT 1976.

WHEREAS it is expedient to consolidate and promulgate the Law relating to Trespasses by cattle in Northern Areas, it is hereby enacted as follows:—

**1. Title and extent.—**

- (1) This Act may be called the Northern Area, Cattle Trespass Act, 1976.
- (2) It extends to whole of Northern Areas.

**2. Interpretation clause:—**

In this act—

- i) Local Government means, the Resident/Commissioner for NA., Gilgit.
- ii) Officer of Police includes also village Numberdar and Village Watchman.
- iii) Forest Officer includes also the Forest plantation and Nursery Chowkidars.
- iv) Cattle includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, Mules, asses, sheep lambs, goats and kinds etc
- v) Local authority means any body of person for the time being invested by Law with the control and administration of any matters within a special local area,
- (vi) "Local funds" means any fund under the control or management of local authority.

**3. Establishment of Pounds.—**

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

**4. Control of pounds, Rates of charge for feeding, impounded cattle.—**

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

**5. Appointment of pound-keepers.—**

The (local) Government shall appoint a pound-keeper for every pound.

- (i) Pound-keepers may hold other offices. Any pound keeper may held simultaneously and other Office under the Government.
- (ii) Pound-keepers to be public Servants. Every pound keeper shall be deemed to be a public servant.

**6. To keep Registers and furnish returns.—**

Every pound-keepers shall keep such registers and furnish such returns as the (Local Govt.) from time to time directs.

**7. To register seizures.—**

When cattle are brought to 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 seizure, and
- (d) the name and residence of the owner, if known,

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

**8. To take charge of and feed cattle.—**

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

**9. Cattle damaging land.—**

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 owner or the person having interest in any land or the vendee or mortgagee 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, with twenty-four hours) to the pound established for the village in which the land is situated.

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

**10. Cattle damaging public roads, canals and embankments.—**

Person in charge of public roads, pleasure-grounds, plantation, canals, drainage-work, embankments and the like and Officers of Forest may seize, or cause to be seized, any cattle doing damage to such roads, grounds, plantations canals, drainage works, embankment and the like or the sides or slopes of such roads, canals, drainage-works or embankment or found straying thereon.

**11. Fines for cattle impounded.—**

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 (Local 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 Officer as the (Local Government) may direct.

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.

**11a. The Scale of fines for the time being will be as under for the District Head quarters and for all other places it will be 50% of these rates:—**

	<u>per day i.e:24 hours.</u>
1. Goats	Rs.10/00 per head
2. Donkeys	Rs.10/00 per head
3. Camels	Rs.15/00 per head
4. All other cattle	Rs.10/00 per head.

**Delivery or sale of Cattle****12. Procedure when owner claims the cattle and pays fines and charges.**

If the Owner of the impounded cattle or his agent appears 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.

**13. Procedure if cattle be not claimed within a week.**

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

- (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 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.

**14. Delivery of owner disputing legality of seizure, but making deposit.—**

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 complain under section 20, then upon deposit of the fines and charges incurred in respect of the cattle, the cattle, shall be delivered to him.

**15. Procedure when owner refuse or omits to pay the fines and expenses.—**

If the owner or his agent appear and refuse or omit to pay or (in the case mentioned in section 14) 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 13.

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

**16. Disposal of fines, expenses and surplus proceeds of sale.—**

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

The charges for feeding and watering deducted under section 15 shall be paid by part over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under Section 12.

The surplus un-claimed 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 revenue of the (Local Govt.)

**17. Officers and pound-keeper not to purchase cattle at sales under Act.—**

No Officer of Police or other Officer or Pound-keeper appointed under the provisions herein contained shall directly or indirectly, purchase cattle at 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 deliver is ordered by a Magistrate of Civil Court.

**Complaints of illegal Seizure or Detention.**

**18. Power to make complaints.—**

Any person whose cattle have been seized under this Act, or having been so seized, have been 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.

**19. Procedure on complain.—**

The complain 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.

**20. Compensation for illegal seizure or detention.—**

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 rupees, 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.

**21. Recovery of compensation.—**

The compensation, fines and expenses mentioned in Section 20 may be recovered as if they were fines imposed by the Magistrate.

**PENALTIES****22. Penalty for forcibly opposing the seizure of cattle or rescuing the same.—**

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

And who ever 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 one thousand rupees or with both.

**23. Recovery of penalty for mischief committed by causing cattle to trespass.—**

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 a 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.

**24. Penalty on pound-keeper failing to perform duties.—**

Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of Section 17 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 Rs. One hundred.

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

**25. Application of fines recovered under section 23 & 24.—**

All fines recovered under section 23, section 24 may be appropriated in whole or in part as compensation for damage provide to the satisfaction of the convicting Magistrate.

**Suits For Compensation****26. Saving of right to sue for compensation.—**

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.

### **Supplemental**

**27. Power for Local Government to transfer certain functions to local authority and direct credit of surplus receipts to local fund.—**

The “Local Government” may from time to time, by notification to 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 local Govt. or the Magistrate of the Distt. Under this Act within the local area subject to the jurisdiction of the local authority.

**28. Delegation of certain powers of the Magistrate of the District:—**

The Magistrate of the district may, by an order, writing, delegate the powers specified below to any magistrate sub-ordinate to him,

- (i) the determination of the manner of disposal of un-claimed impounded cattle under the provision to Section 13, and
- (ii) the settlement of claims in respect of surplus un-claimed proceeds of the sale of cattle held in deposit under section 16.

**NO.RE.MISC-HC-NTF-30/65-66.**

Whereas it is expedient to regulate —ment, breaking and cultivation of Nautor land in Baltistan Agency, the following rules are hereby promulgated.

**BALTISTAN NAUTOR RULES, 1966.**

These rules may be called THE BALTISTAN AGENCY NAUTOR RULES 1966.

They shall apply to the whole of Baltistan Agency and shall come into force at once.

All Nautors granted, lands broken or mutations attested before the date of coming into force of these rules shall be deemed to have been granted, broken or attested under these rules:

Provided that the Collector Baltistan, may review any mutation of Nautor attested before the commencement of these rules and order its cancellation if he is satisfied that the holder of nautor has failed to break and cultivate the land.

For the purpose of satisfying himself about the propriety and legality of Nautor mutations attested prior to the commencement of these rules, the Collector Baltistan, may direct the Assistant collector 1st Grade, Baltistan (Assistant Political Agent), to hold enquiry and \_\_\_\_\_

Political Tehsildar has inspected the spot and satisfied himself that the whole area has been broken and brought under cultivation. The Political Tehsildar shall make a note to this effect in the register of mutations before attesting such mutations. Any person wishing to break a Nautor after the commencement of these rules shall apply to the Assistant collector, 1st Grade, Baltistan, indicating the approximate area with the boundaries, he proposes to break and the assistant collector, after due enquiry or upon the report of the Tehsildar or Naib Tehsildar, Baltistan, made after proper spot enquiry, may sanction the application if he is satisfied that the breaking of the nautor by the applicant in no way causes any infringement or interference with the rights of the Government or any other zamindar. The enquiry shall be confined to the following points:—

- (i) whether the interested villagers and zamindars to whom notice was given have any objection? (The statements of the person to whom notice was given shall be recorded.)
- (ii) whether there is any objections from the point of view of Government.
- (iii) whether the supply of water is sufficient to preclude further disputes or allegations or shortage.
- (iv) whether there is any possibility of the land being required for Government purposes in the near future.
- (v) whether there is any possibility of any interference with monuments, places of worship, camping grounds, picnic spots, graveyards, channels, thorough fares, roads, Government or public plantations.

The Tehsildar or the Naib Tehsildar shall also take into account the entries in Wajeb-ul-Arz of the concerned village as prepared by the settlement authorities and be guided by the rules embodied in the Wajeb-ul-Arz.

An order passed under rule 6 shall not preclude the applicant or any objector from suing to establish his rights in a competent court of law.

The mutation of a Nautor of which, the breaking is sanctioned under rule 6, shall be entered and attested when the whole area has been broken and cultivated. The record of enquiry under that rule shall be called for when the mutation of Nautor is attested. Any objection then raised which could have been put forward at the enquiry may be disallowed by the attesting officer if he deems fit to do so for sufficient reasons.

If, after a period of three years from the date on which an application to break a Nautor was sanctioned, the applicant has failed to cultivate the Nautor, the land may be resumed by the Collector, Baltistan and granted to any other applicant under rule 6.

The Collector, Baltistan, may prohibit the breaking of Nautor in any specified area where he considers that the supply of water is insufficient to irrigate the Bandbase land or where the land is required for Government purposes or for any other reason breaking of Nautor is inadvisable.

Whoever breaks a Nautor in contravention of rule 6 or breaks Nautor in an areas prohibited by Political Agent, Baltistan under rule, 11, shall be liable to the penalties specified in Section 133(2) of the Jammu and Kashmir Regulation No.12 of 1966 Bikrimi as in force in Baltistan.

25-8-1966.

Sd/-  
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Provincial Government for Gilgit & Baltistan.