

CATTLE-TRESPASS ACT, 1871
[Act No. 1 of 1871]¹

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

Whereas it is expedient to consolidate and amend the law relating to trespasses by cattle;

It is hereby enacted as follows: -

CHAPTER I : PRELIMINARY

²[1. Title and extent

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

(2) it extends to ³[the whole of the India except ⁴[the territories which, immediately before the 1st November, 1956, were comprised in Part B States]] and the Presidency-towns and such local areas⁵ as the State Government by notification in the Official Gazette, may from time to time exclude from its operation.

⁶[***]

[Section 2 repealed by the Repealing Act, 1938]

3. Interpretation clause

In this Act,-

"Officer of police" includes also village watchman, and "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids, ⁷[and

"local authority" means any body 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 POUNDS-KEEPERS

4. Establishment of pounds

Pounds shall be established at such places as the ¹[District Collector], subject to the general control of the State Government, from time to time directs.

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

5. Control of pounds. Rates of charge for feeding impounded cattle

The pounds shall be under the control of the ¹[District Collector] ; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

⁸[6. Appointment of pound-keepers

The State Government shall appoint a pound –keeper for every pound.

Pound-keepers may hold other offices

Any pound-keeper may hold simultaneously any other officer under the Government.

[1] substituted as per Cattle-tresspass (Tamil Nadu) Amendment Act, 1957

Pound-keepers to be public servants

Every pound-keeper shall be deemed to be a public servant within the meaning of the Indian Penal Code.].

Duties of pound-keepers

7. To keep registers and furnish returns

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

8. To register seizures

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 seizure, and
- (d) the name and residence of the owner, if known,

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

9. To take charge of and feed cattle

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

CHAPTER III : IMPOUNDING CATTLE

⁹10. 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 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 of to any crop or produce thereon, and ¹⁰[send them or cause them to be sent within twenty four hours] to the pound established for the village in which the land is situated.

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.

Comment: *A person is not entitled to seize cattle which has not done any damage. A clear finding of damage done by the trespassing cattle is essential to a conviction under section 24. AIR Patna 299*

11. Cattle damaging public roads, canals and embankments

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 or such roads, canals, drainage-works, or embankments, or found straying thereon.

And shall ¹¹[send them or cause them to be sent within twenty-four hours] to the nearest pound.

¹²[12. Fines for cattle impounded]

For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine in accordance with the scale for the time being prescribed by the State 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 ¹[District Collector] through such officer as the State Government may direct.

List of fines and charges for feeding

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

CHAPTER IV : DELIVERY OR SALE OF CATTLE

13. Procedure when owner claims the cattle and pays fines and charges

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.

14. 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 in charge of the nearest police-station, or to such other officer as the ¹[District Collector] appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice starting--

- (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.

15. Delivery to 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 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.

[1] substituted as per Cattle-tresspass (Tamil Nadu) Amendment Act, 1957

16. Procedure when owner refuses 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 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.

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,

Delivery of unsold cattle and balance of proceeds

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.

17. 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 so deducted.

The charges for feedings 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 ¹[District Collector], 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, ¹³[be deemed to hold them as part of the revenues of the State].

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

19. Officers and pound-keepers 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, purchases any 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 delivery is ordered by a Magistrate or Civil Court.

[1] substituted as per Cattle-tresspass (Tamil Nadu) Amendment Act, 1957

CHAPTER V: COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION

20. 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.

21. Procedure on complaint

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 complainant to be well founded, he shall summon the person complained against, and make an inquiry into the case.

22. 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, 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.

(*) 22-A: Appeal against order of compensation:- (1) Any person who has been ordered by a Magistrate under section 22 to pay compensation may appeal from the order, as if such person had been convicted on trial held by such Magistrate.

(*) (2) When an order for payment of compensation to a complainant is made in a case which is subject to appeal under sub-section (1), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

23. Recovery of compensation

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

CHAPTER VI : PENALTIES

24. 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 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 rupees, or with both.

25. 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 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 his charge when the trespass was committed.

(*) inserted as per Cattle-tresspass (Tamil Nadu) Amendment Act, 1957

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

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 rupees.

The State 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 had 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 rupees" were substituted for the words "ten rupees" or as if there were both such reference and such substitution.]

27. Penalty on pound- keeper failing to perform duties

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 rupees.

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

28. Application of fines recovered under section 25, 26 or 27

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

29. 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.

30. Set-off

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

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

The State 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 State Government or the '[District Collector]' under this Act, within the local area subject to the jurisdiction of the local authority.

[SCHEDULE repealed by the Repealing Act, 1938 (1 of 1938)]

[1] substituted as per Cattle-tresspass (Tamil Nadu) Amendment Act, 1957