The Jammu and Kashmir Cattle Trespass Act, 1920

Act 8 of 1920

Keyword(s):
Town, Village

Act No. VIII of 1977.

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SCHEDULE—Omitted.
THE CATTLE-TRESPASS ACT, 1977 (1920 A. D.)

Act No. VIII of 1977.

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister’s Endorsement No. 8372, dated 11th September, 1920, read with State Council Resolution No. 1, dated 8th April, 1925, (Notification No. 14-L/81).]

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

Preamble.—Whereas it is expedient to consolidate and amend the law relating to trespass by cattle; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Cattle Trespass Act, 1977.

(2) It extends to the whole State, except such towns or local areas as [the Government] by notification in the Jammu and Kashmir Government Gazette, may from time to time exclude from its operation.

(3) It shall come into force on the 1st day of Baisakh, 1978.

2. Savings.—All pounds established, pound-keepers appointed and villages determined under the State Council Circular No. 30 of 1889 (relating to trespasses by cattle), shall be deemed to be respectively established, appointed and determined under this Act.

3. Interpretation clause.—In this Act,—

“Officer of Police” includes also village watchmen and [in any local area with respect to which a Notification under section 33 is

1. Substituted by Act No. X of 2010 for “His Highness’ Government, Jammu and Kashmir”. (For earlier amendments see Notification 22-L/83 etc. 11-1/86.)

for the time being in force, also any employee of the local authority referred to in that section.

“Cattle” includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, kids.

1[“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 POUND-KEEPERS

4. Establishment of pounds.—Pounds shall be established at such places as the 2[Deputy Inspector General] of Police of a Province subject to the general control of the Government from time to time directs.

The village by which every pound is to be used shall be determined by the 2[Deputy Inspector General] of Police of a Province.

5. Control of pounds. Rates of charge for feeding impounded cattle.—The pounds shall be under the control of the 2[Deputy Inspector General] of Police of a Province; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

6. Appointment of pound-keepers.—The 2[Deputy Inspector General] of Police of a Province shall also appoint for each pound a pound-keeper.

Suspension or removal of pound-keepers.—Every pound-keeper appointed by the 2[Deputy Inspector General] of Police of a Province may be suspended or removed by him.

2. Substituted by Act No. X of 2010 for “Superintendent”.
Pound-keepers may hold other offices.—Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers to be "public-servants".—Every pound-keeper shall be deemed a public servant within the meaning of the Ranbir 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 Government from time to time direct.

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 seizer, and

(d) the name and residence of the owner, if known and shall give the seizer 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

10. 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 or to any crop or produce thereon.
and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situate.

**Police to aid seizures.**—All officers of Police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescue from persons making such seizures.

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

and shall send them or cause them to be sent within twenty-four hours to the nearest pound.

12. **Fines for cattle impounded.**—[For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

<table>
<thead>
<tr>
<th>Animal</th>
<th>Rs. P.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elephant</td>
<td>6.00</td>
</tr>
<tr>
<td>Camal</td>
<td>3.00</td>
</tr>
<tr>
<td>Buffalo, horse, mare gelding or pony</td>
<td>2.00</td>
</tr>
<tr>
<td>Bull, bullock, cow, heifer or ass</td>
<td>1.50</td>
</tr>
<tr>
<td>Pig, sheep, ram or ewe</td>
<td>0.50</td>
</tr>
<tr>
<td>Goat</td>
<td>1.00</td>
</tr>
</tbody>
</table>

**Note.**—Calf, lamb, kid, colt or filly under six months shall be charged at half rates.

Provided that when it appears to the Government from the report of 2[Deputy Inspector General] of Police of a Province, or on the representation of a local authority, that, in any local

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1. First paragraph of section 12 substituted by Act No. X of 1855.
2. Substituted by Act No. X of 2010 for “Superintendent”.

area subject to the jurisdiction or control of such 1[Deputy Inspector General] of Police or authority, cattle habitually allowed to trespass on land and damage crops or other produce thereon, the Government may, by notification in the Jammu and Kashmir Government Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale as may be prescribed in the notification.

List of fines and charges for feeding.—All fines so levied shall be sent to the 1[Deputy Inspector General] of Police of a Province through such officer as 2[the Government] from time to time direct.

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

2[The Government] may at any time, by notification in the Jammu and Kashmir Government Gazette, cancel or vary a notification under the proviso to the first paragraph of this section.

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 fact shall be reported to a Magistrate whom the Magistrate of the District appoints in this behalf.

1. Substituted by Act No. X of 2010 for "Superintendent".
2. Substituted by Act No. X of 1996 for "His Highness".
Such Magistrate shall thereupon stick up in a conspicuous part of his office a notice stating—

(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 Magistrate, 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, 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.

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 Magistrate, at such place and time and subject to such conditions, as are referred to in section 14.

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

Receipts.—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 Magistrate by whom the sale was made shall remit to the treasury the fines so deducted.

The charges for feeding 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 held in deposit for three months, and if no claim thereto be preferred and established within that period shall, at its expiry, be remitted to the treasury.

18. Omitted.

19. Officers and pound-keepers not to purchase cattle at sales under Act.—No Magistrate, Officer of Police, or other officer or pound-keeper appointed under the provisions herein contained, shall, directly or indirectly, purchase 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.
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 1[a Judicial Magistrate having Jurisdiction.]

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 complaint to be well founded, he shall summon the person complained against, and make an enquiry 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;

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.

23. Recovery of compensation.—The compensation, fines and expenses mentioned in section 21 may be recovered as if they were fines imposed by the Magistrate.

1 Substituted by Act No. XL of 1966.
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 1[a Judicial Magistrate,] be punished with imprisonment for a period not exceeding one month, or with fine not exceeding fifty 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 in his charge when the trespass was committed.

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 1[a Judicial Magistrate,] be punished with fine not exceeding ten rupees.

The Government by notification in the Jammu and Kashmir Government Gazette, may from time to time, with respect to any local 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

1. Substituted by Act No. XL of 1986 for “a Magistrate”
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 1[a Judicial 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 sections 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
SUITES FOR COMPENSATION

29. Saving of rights 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 of Deputy Inspectors General of Police to fix and revise the scale of charges.—The 2[Deputy Inspectors General] of Police, may, within their respective jurisdictions, by notification in the Jammu and Kashmir Government Gazette, fix or from time to time revise the scale of charges for the upkeep of the impounded cattle for the purposes of this Act.

1. Substituted by Act No. XL of 1966 for "a Magistrate".
2. Substituted by Act No. X of 2010 for "Superintendent".
32. Pounds may be used for unclaimed or attached cattle.—The pounds established under this Act may, whenever necessary, be utilized for the up-keep of cattle to which the provisions of the law for the time being in force, relating to unclaimed or attached property apply. The expenses of such cattle shall be paid according to the scale in force.

1 [33. Transfer of functions and surplus to any local authority.—The Government may, from time to time subject to such conditions as may be considered proper, by Notification in the Jammu and Kashmir Government Gazette:—

(a) transfer to any local authority all or any of the functions of the Government or the 2 [Deputy Inspector General] of Police of the Province under this Act within the local area subject to the jurisdiction of the local authority, and

(b) direct that the whole or any part of the surplus accruing in such local area under section 17 of this Act shall be placed to the credit of such local fund or funds as may be formed for such local area;

and may from time to time by Notification in the Jammu and Kashmir Government Gazette cancel or vary any Notification under this section.]

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2. Substituted by Act No. X of 2010 for "Superintendent".