

THE CATTLE TRESPASS ACT, 1977, (1920 A. D.) ACT No. VIII OF 1977

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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 expedient to consolidate and amend the Law relating to trespass by cattle. It is hereby enacted as follows:

CHAPTER I PRELIMINARY

- 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 as 1 r 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. In this Act:-

Interpretation clause.-"Officer of Police" includes also village watchmen and ²[in any local area with

respect to which a Notification under section 33 is 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 anybody 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 fixed 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.

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 directs.

8. *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 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.*-To 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 situated.

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.

1 [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:-

1. Elephant	-	6.00 Per day
2. Camel	-	3.00 Per day
3. Buffalo, horse, mare, gelding or pony	-	2.00 Per day
4. Bull bullock, cow, heifer or ass...	-	1.50 Per day
5. Pig, sheep, ram or ewe.	-	0.50 Per day
6. Goat	-	1.00 Per day

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 area subject to the jurisdiction or control of such 2[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 *finer* and charges for feeding.-All fines so levied shall be sent to the2 [Deputy Inspector General] of Police of a Province through such officer. as 3 [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.

3 [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 charge's incurred in respect of such cattle.

The owner or his agent, on taking back the cattle, shall sign a receipt fir 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.

Such Magistrate shall thereupon stick up in a' conspicuous part of his office a notice stating.

- (a) 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 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-keepers, 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. Officer's 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 OF DETENTION

20. Power to make complaints.- Any person whose cattle have been 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 [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.

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 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, though 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 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 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 [Judicial Magistrate], with fine not exceeding fifty rupees.

Such fines may be recovered by deductions from the Pound-keepers 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

SUITS 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 [Deputy Inspector 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.

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.

[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 [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].

THE CATTLE TRESPASS ACT 1977 (1920 A.D.) ACT No. VIII' OF 1977

Rate of feeding and watering impounded cattle in Jammu District Range Police Officer, Jammu [Notification whereas the price of fodder has increased appreciably during the course of the last few months and whereas the present rates charged for feeding and watering of impounded cattle are low and inadequate for properly feeding the impounded Cattle].

Now, therefore, in exercise of the powers vested in me by virtue of section 5 of Cattle Trespass Act 1977 (viii of 1977) I, Deputy Inspector of Police Jammu Range, hereby enhance the rates of feeding and watering the impounded Cattle in Jammu District with effect from 1st February, 1969. The revised rates in respect of various categories of cattle shall be as under

i) Elephant	Rs. 7 per day.
ii) Camel-	Rs.-5 per day.
iii) Bugalo, Horse, mare, gelding or pony-	Rs. 4 per day.
iv) Bull, Bullock, Cow, Heifer or ass	Rs. 3 per day.
v) Sheep, Goat, ram, ewe	Rs. 1.50 per day.
vi) Pig	Rs. 2 per day

**POWERS OF CANTONMENT MAGISTRATE, JAMMU
UNDER THE ACT :**

Office of the District Magistrate Jammu Province [dated, 20th April, 1938.-In exercise of the powers vested in me under Section 14 of the Cattle Trespass Act, Samvat 1977; I hereby appoint the Jammu Cantonment Magistrate to exercise powers of a Magistrate under the Cattle Trespass Act within the five Rakhs i.e. (1) [Chatta] (2) Farm Satwari (3) Bari Brahamna Rakh (.4) Baran Rakh and (5) Gole Rakh. The Magistrate should exercise these powers strictly in accordance with the sections of the above Act,

**POWERS OF CANTONMENT MAGISTRATE BADAMI BAGH
UNDER THE ACT:**

Office of the District Magistrate of Kashmir [dated 10th May, 1938].-In exercise of the powers vested in me under section 14 of the Cattle Trespass Act Samvat, 1977 the Brigade Commander, Badami Bagh (Cantonment Magistrate) is hereby appointed a Magistrate under the Cattle Trespass Act. He shall exercise these powers under the said Act within the local area of the following five Military Rakhs:

(1) Banyari (2) Nowgam (3) Gundak Shah (4) Arth and (5) Brah .

**TRANSFER OF 'FUNCTIONS OF THE DIG OF POLICE TO THE MUNICIPALITIES OF
SRINAGAR AND JAMMU**

Law Department [Notification No. 23-L/83 dated 4th Jan., 1927 with reference in the provisions of section 33 of the Cattle Trespass Act, Samvat 1977, His Highness the Maharaja Bahadur in Council has. been pleased] :

(a) to transfer to the Municipal Committees of Jammu and Srinagar Towns (subject to the control vested in the Member of the Jammu & Kashmir State Council in charge of the Municipalities under the Municipal Act over the Municipal officers of the said Committee), all the functions of the Deputy Inspector General of Police of a Province under the Cattle Trespass Act, Samvat 1977, within the Municipal limits of the said towns;

(b) to direct that the whole of the surplus accruing within the said limits shall be placed to the credit of the Municipal fund of the Municipal Committee concerned; and

(c) to direct .that the functions transferred under clause

(a) may be delegated by the Municipal Committee concerned to any specific employee thereof with the previous sanction of the member of the Jammu and Kashmir State Council-in-charge of the Municipalities.

**TRANSFER OF FUNCTIONS OF THE DIG OF POLICE
TO CERTAIN NOTIFIED AREAS.**

Office of the Minister-in-charge Municipalities [No. 1 dated 26th March, 1932].-With reference to the provision of section 33 of the Cattle Trespass Act Samvat, 1977, His Highness the Maharaja Bahadur has been pleased:

(a) to transfer to the [Notified areas Udampur, Mirpur, Baramulla and Sopore towns] subject to the control vested in the Minister in charge of the Municipalities under the Municipal Act, over the Municipal officers of the said Notified Area Committees all the functions of the Deputy Inspector General of Police under the Cattle Trespass Act, Samvat, 1977 within the Notified Areas of the said towns;

(b) to direct that the whole of the surplus accruing with in the said limits shall be placed to the credit of the fund of the Notified Area Committee concerned; and

(c) to direct that the functions transferred under clause (a) may be delegated by the [Notified Area Committee concerned to. any specified employee thereof with the previous sanction of the Minister-in-charge of the Municipalities].