



Tonga

POUNDS AND ANIMALS ACT

Chapter 22.20

2016 Revised Edition



POUNDS AND ANIMALS ACT

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POUNDS AND ANIMALS ACT

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO POUNDS AND ANIMALS¹

Commencement [26th September, 1918]

1 Short title

This Act may be cited as the Pounds and Animals Act.

2 Interpretation

In this Act —

“cattle” means the male, female or young of any of the following kinds of animals—

horse, ass, mule, kine, sheep, goat or swine.

PART I — POUNDS

3 Establishment of pounds

It shall be lawful for the Minister of Police with the consent of the Cabinet to authorise the erection or use of such public pounds in each district, town or village as he thinks necessary in which pounds all cattle liable to be impounded shall and may be lawfully kept and detained according to the provisions of this Act and the establishment of any such pound shall be notified in the Gazette.²

4 Minister of Police to have supervision of pounds

- (1) The Minister of Police shall have the management and supervision of all pounds.
- (2) It shall be lawful for the Minister of Police to appoint a keeper to each pound and such keeper shall be entitled to demand the pound fees specified in the Schedule and shall on receipt pay the same into the Treasury to the credit of the general revenue.

5 Trespassing cattle may be impounded

The owner or occupier of any cultivated or pasture land or of any enclosed land or any person authorized by him may seize any cattle found trespassing on such land and within 24 hours after seizure send or take any such cattle to the nearest pound to be dealt with according to this Act.

6 Cattle wandering on highway may be impounded

Any cattle found tethered or wandering or straying or lying down in any road, street, highway or any other public place may be seized and sent to or taken to the pound by any constable or other person finding the same.

7 Pound keeper to inquire as to ownership of impounded cattle

- (1) It shall be the duty of the pound keeper to make, and of the person bringing any cattle to the pound to answer, all such inquiries as are likely to make known the owner of such cattle.
- (2) Any person bringing any cattle to the pound who fails or omits to answer truly and fully to the best of his knowledge, remembrance, information and belief any inquiry made of him pursuant to this section shall be guilty of an offence.

8 Impounded cattle to be detained until sold or fees paid

Any cattle received into a pound shall be detained until sold under the provisions of this Act unless before the time for such sale the owner or person having charge of such cattle pays the pound fees specified in the Schedule in which case the pound keeper shall deliver the said cattle to such owner or person.

9 Pound keeper to supply food and water

Any pound keeper who neglects or omits to supply any cattle impounded with suitable food and water daily while under his charge shall be guilty of an offence.

10 Pound keeper to give notice of intended action

- (1) It shall be the duty of the pound keeper within 48 hours after the impounding of any animal to send notice either to the owner of such animal, or if the owner be unknown, to the district officer of the village from which such animal was brought to the pound stating that such animal unless in the meantime released will be sold by public auction at 10 a.m. on a day named in such notice but not being sooner than the fourth day after and exclusive of the date of such notice.
- (2) The pound keeper shall also not later than the day preceding the sale cause public notice of the day and hour of such sale to be given by the town officer of the village in which the pound is situated.
- (3) Any pound keeper who omits to give any notice required by this section shall be guilty of an offence.

11 Impounded cattle to be sold at auction

At the time and hour appointed the pound keeper may put up such animal for sale by public auction and sell and deliver same to the highest bidder on receiving the amount of the bid in cash and if the amount so bid be not forthwith paid may again put up the animal for sale.

12 Application of proceeds of sale

The pound keeper shall pay the proceeds of any such sale into the Treasury to the credit of the general revenue:

Provided that if the owner of any animal so sold shall establish his ownership to the satisfaction of the Minister of Police within 6 months of such sale the amount so paid into the Treasury less the amount of the pound fees and expenses of feeding shall be repaid to him.

13 Bidding at auction

Neither the person impounding or causing any cattle to be impounded nor the pound keeper shall either personally or by any other person bid for or purchase any impounded cattle when put up for sale by auction and any person offending against this provision shall be guilty of an offence.

14 Destruction of impounded cattle if not sold

Should there be no bid for any impounded animal when put up for sale the Minister of Police or his representative on being notified thereof by the pound keeper may cause a constable to destroy such animal by shooting it with a rifle.

15 Pound breach

Any person who rescues or attempts to rescue any cattle while in or being taken to any pound or breaks or injures any pound or does or assists the doing of any act whereby any impounded cattle may escape or be unlawfully removed or liberated shall be guilty of an offence.

PART II — TRESPASS BY CATTLE**16 Neglect to fence or secure cattle punishable**

Any person who being the owner or occupier of any land keeps any cattle or permits the same to be kept on such land and neglects to enclose within a fence or otherwise secure such cattle shall be guilty of an offence:

Provided that this section shall not apply to the keeping by such owner or occupier of a single horse, cow or goat on tether.

17 Owner of trespassing cattle liable for damage

The owner or occupier of any cleared or cultivated land trespassed upon by any cattle shall be entitled to recover from the owner or person having the charge, management or control of such cattle compensation for any damage caused by the trespass of such cattle.

18 Pigs found at large

It shall be lawful for any constable or other police officer to kill any pig found at large upon any road or public property.

19 Damage to graves

Any person who shall permit any cattle of which he is the owner or has charge to damage any grave, headstone or memorial shall be guilty of an offence and in addition to any punishment authorised by this Act shall be liable to pay such sum of money by way of compensation not exceeding \$20 as shall be ascertained by the magistrate by whom such person shall have been convicted and in default of payment thereof shall be liable to an additional period of imprisonment for any term not exceeding 3 months.

20 Unlawful to liberate cattle lawfully tethered

Any person who without being thereunto duly authorised shall liberate any cattle owned by another person and lawfully tethered shall be guilty of an offence and in

addition to any punishment authorised by this Act shall also be liable on such conviction to pay compensation not exceeding \$20 for any damage or injury done to any person or property by such cattle and in default of payment thereof shall be liable to imprisonment for any term not exceeding 3 months. Such compensation shall be ascertained and determined by the Magistrate and shall be paid to the injured person or to the owner of the cattle or the property so damaged or injured.

PART III — CRUELTY TO ANIMALS

21 Cruelty to animals

Any person who shall cruelly beat, abuse, starve, overdrive, override, overload or otherwise ill-treat any domestic animal or bird or any animal or bird kept in a state of confinement, or shall work, ride or drive any horse while in an unfit condition from any sore girth, gall or lameness, or shall work, ride or drive any horse by means of any bit other than a metal one suited for the purpose shall be guilty of an offence and shall be liable at the discretion of the Court to imprisonment for any period not exceeding 6 months or to a fine not exceeding \$20 and in default of payment thereof to imprisonment for any period not exceeding 3 months.³

22 Ill-treatment of animals

Any person who being the owner of any animal or bird knowingly permits the same to be ill-treated in any manner whatsoever or permits any horse to be worked, ridden or driven while in an unfit condition from any sore girth, gall or lameness or by means of any bit other than a metal one suited for the purpose shall be guilty of an offence and shall be liable to a fine not exceeding \$10 and in default of payment to imprisonment for any period not exceeding 3 months.⁴

23 Injured animals⁵

- (1) If a police constable finds any animal so diseased or so severely injured or in such physical condition that in his opinion, having regard to the means available for removing the animal there is no possibility of removing it without cruelty, he shall if the owner is absent or refuses to consent to the destruction of the animal at once summon a medical officer if any such medical officer resides within a reasonable distance and if it appears by the certificate of such medical officer that the animal is mortally injured or so severely injured or so diseased or in such physical condition that it is cruel to keep the animal alive it shall be lawful for such police constable without the consent of the owner to slaughter such animal or to cause it to be slaughtered in such manner as to inflict as little suffering on the animal as possible.

- (2) If no medical officer resides within a reasonable distance of the place where the animal is found or if a medical officer cannot within a reasonable time be procured then the police constable shall summon the District Officer or Town Officer and two other persons of adult age and if two at least of the three persons so summoned certify that it is cruel to keep the animal alive it shall be lawful for such police constable to slaughter the animal or cause it to be slaughtered in the manner aforesaid.

Removal of animal

- (3) If the medical officer or other persons summoned under this section certify that the injured animal can without cruelty be removed it shall be the duty of the person in charge of the animal to cause it forthwith to be removed with as little suffering as possible and if that person fails so to do the police constable may without the consent of that person cause the animal forthwith to be removed.

Recovery of expenses

- (4) Any expense which may be reasonably incurred by any constable in carrying out the provisions of this section may be recovered from the owner summarily as a civil debt.

Definition of animal

- (5) For the purpose of this section “animal” means the male, female or young of any horse, mule, ass, kine, sheep, goat, swine or dog.

PART IV — GENERAL

24 Sale of horses or kine

- (1) It shall be unlawful to slaughter or sell or transfer as a gift any horse or kine otherwise than as follows —
- (a) the person wishing to effect such slaughtering, sale or transfer shall obtain the prior permission in writing of the senior police officer of the district, or of the town officer of the town, in which the intended slaughtering, sale or transfer as a gift is to take place; and
 - (b) such sale or transfer shall take place on the town common or place normally used for holding fonos, and between the hours of 8 a.m. and 5 p.m. on any day except Sunday.⁶
- (2) The senior police officer referred to in this section and the district or town officer of the district or village in which such slaughtering, or sale or transfer takes place shall record in writing the name of the owner of the live animal in the case of such slaughtering and in the case of such sale or transfer the names of the seller and buyer and the price or the names of the donor and donee whichever shall apply.

- (3) Any violation of the provisions of this section shall on conviction be punishable by a fine not exceeding \$10 and in default of payment by imprisonment for any term not exceeding one month.⁷

25 Penalty

Any person guilty of an offence against this Act for which no other penalty is provided shall be liable on conviction to a fine not exceeding \$10 and in default of payment to imprisonment for a period not exceeding 2 months.

26 Prosecutions

All proceedings for offences against this Act or for the recovery of any penalty or money under this Act shall be by summons in the Magistrate's Court and such proceedings may be either in the name or at the instance of the police or of an aggrieved or injured person.

THE SCHEDULE

Section 4(2)

POUND FEES⁸

	\$
For every horse, mare, gelding, mule	10
For every bull, cow, calf	10
For every sheep, goat, pig	10
Expenses of feeding for each day except the first day for which an animal remains in the pound —	
For every horse, mare, gelding, mule	2
For every bull, cow, calf	2
For every sheep, goat, pig	2

ENDNOTES

¹ 1988 Revised Edition Cap. 147 - Acts 37 of 1903 (S. 1024), 13 of 1918, 7 of 1930, 11 of 1934, 15 of 1943, 12 of 1952, 3 of 1955, 8 of 1965, 6 of 1969, 27 of 1978, 18 of 1987;

Amending Acts after 1988

Amending Acts	Commencement
Act 10 of 1989	18 October 1989
Act 42 of 2010	24 November 2010

² By R.R. 147/1929 and G. 136/49 the following pounds have been established —
TONGATAPU — Vaitupu, Vaini, Tatakamotonga, Kolonga, Houma, Nukunuku, Kolovai
'EUA — 'Ohonua. Amended by Act 42 of 2010

³ Amended by Act 7 of 1930

⁴ Amended by Act 7 of 1930

⁵ Added by Act 11 of 1934

⁶ Amended by Act 10 of 1989

⁷ Substituted by Act 8 of 1965

⁸ Substituted by Act 18 of 1987