



1980

c 383 Pounds Act

Ontario

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CHAPTER 383

Pounds Act

1. Except so far as varied by any by-law passed under paragraphs 3 to 6 of section 210 of the *Municipal Act*, this Act is in force in every city, town, township and village in Ontario. R.S.O. 1970, c. 353, s. 1.

Scope of Act save as varied by by-laws R.S.O. 1980, c. 302

2. The owner or occupant of any land is responsible for any damage caused by any animal under his charge and keeping as though such animal were his own property, and the owner of any animal not permitted to run at large by the by-laws of the municipality is liable for any damage done by such animal, although the fence enclosing the premises of the complainant was not of the height required by such by-laws. R.S.O. 1970, c. 353, s. 2.

Liability of owners and others for damage done

3. No cattle, goat, horse, sheep or swine shall be allowed to run at large in any part of a provisional judicial district not included in an organized municipality. 1975, c. 67, s. 2, *part.*

Animals not to run at large

4. The owner of any cattle, goat, horse, sheep or swine running at large contrary to section 3 is liable in damages for all injuries committed by such animal or animals, and also is guilty of an offence and on conviction is liable to a fine of not more than \$300. 1975, c. 67, s. 2, *part.*

Owner of animal liable for damages and fine

5.—(1) If not previously replevied, the poundkeeper shall impound any horse, bull, ox, cow, sheep, goat, pig or other cattle, geese or other poultry, distrained for unlawfully running at large or for trespassing and doing damage, delivered to him for that purpose by any person resident in his division who has distrained the same.

What animals to be impounded

(2) If the owner of geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbour's premises after a notice in writing has been served upon him of their trespass, he is guilty of an offence and on conviction is liable to a fine of not more than \$10. R.S.O. 1970, c. 353, s. 6.

Poultry

6. Where an animal has been impounded, the poundkeeper shall, within twenty-four hours, deliver to the

Notice to clerk as to animals impounded

clerk of the municipality a notice in writing containing a description of the colour, age and natural and artificial marks of the animal, as nearly as may be. R.S.O. 1970, c. 353, s. 7.

When the common pound is not safe

7. When the common pound of the municipality or place wherein a distress has been made is not secure, the poundkeeper may confine the animal in any enclosed place within the limits of the poundkeeper's division within which the distress was made. R.S.O. 1970, c. 353, s. 8.

Statement of demand to be delivered to poundkeeper by impounder

8.—(1) The person distraining and impounding the animal shall, at the time of the impounding, deposit poundage fees, if demanded, and within twenty-four hours thereafter deliver to the poundkeeper duplicate statements in writing of his demands against the owner for damages, if any, not exceeding \$20, done by such animal, exclusive of poundage fees, and shall also give his written agreement, with a surety if required by the poundkeeper, in the following form or in words to the same effect:

Form of agreement with poundkeeper

I (*or we, as the case may be*) do hereby agree that I (*or we*) will pay to the owner of the (*describing the animal*), by me (*A.B.*) this day impounded, all costs to which the owner may be put in case the distress by me the said (*A.B.*) proves to be illegal or in case the claim for damages now put in by me the said (*A.B.*) fails to be established.

Release of animal on security being furnished

(2) The owner of an animal impounded is entitled to it at any time on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the poundkeeper for all costs, damages and poundage fees that may be established against him. R.S.O. 1970, c. 353, s. 9.

When animal may be retained by distrainer

9.—(1) If the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if it is distrained by a resident of the municipality for straying in his premises, instead of delivering the animal to the poundkeeper, he may retain the animal in his own possession, if he makes no claim for damages done by the animal and duly gives the notices hereinafter required.

Notice to owner if known

(2) If the owner is known, the person distraining shall forthwith give the owner notice in writing of having distrained the animal.

If unknown, notice to clerk of municipality

(3) If the owner is unknown, the person distraining shall, within forty-eight hours, deliver to the clerk of the

municipality a notice in writing of having distrained the animal containing a description of its colour, age and natural and artificial marks, as nearly as may be.

(4) The clerk on receiving the notice shall forthwith enter a copy thereof in a book to be kept by him for that purpose and shall post it or a copy thereof in some conspicuous place on or near the door of his office and keep it so posted for at least one week, unless the animal is sooner claimed by the owner. Duty of clerk thereon

(5) If the animal or animals distrained at the same time is or are of the value of \$10 or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the county or district once a week for three successive weeks. R.S.O. 1970, c. 353, s. 10. If animals worth \$10 or over

10. If an animal is impounded, notices for the sale thereof shall be given by the poundkeeper or person who impounded it within forty-eight hours afterwards, but no pig or poultry shall be sold until after four clear days, nor any horse or other cattle until after eight clear days, from the time of impounding it. R.S.O. 1970, c. 353, s. 11. Sale after notices

11. If the animal is a pig, goat or sheep and is not impounded but is retained in the possession of the person distraining it, the notices for the sale thereof shall not be given for one month, and, if the animal is a horse or other cattle, the notices shall not be given for two months after the animal was distrained. R.S.O. 1970, c. 353, s. 12. If animal is not impounded, but retained

12. The notices of sale shall be posted up for three clear successive days in three public places in the municipality and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law, if any, the amount of the injury, if any, claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees and charges of the poundkeeper and also of the fence-viewers, if any, and the expenses of the animal's keeping. R.S.O. 1970, c. 353, s. 13. Notices of sale unless redeemed

13. Every poundkeeper and every person who impounds or confines, or causes to be impounded or confined, an animal in a common pound or in an open or close pound, or in an enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter during the whole time that it continues impounded or confined. R.S.O. 1970, c. 353, s. 14. Food to be furnished impounded animal

Recovery of expenses

14.—(1) Every such person who furnishes an animal with food, water and shelter may recover the value thereof from the owner of the animal and also a reasonable allowance for his time, trouble and attendance in the premises.

Procedure for recovery

(2) Such value and allowance may be recovered with costs by summary proceeding before the provincial offences court in whose jurisdiction the animal was impounded in like manner as fines, penalties or forfeitures for the breach of a by-law of the municipality may by law be recovered and enforced by the provincial offences court, and the court shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering, so far as possible, to the tariff of poundkeeper's fees and charges established by the by-laws of the municipality. R.S.O. 1970, c. 353, s. 15.

Other mode of enforcing

15. The poundkeeper or person so entitled to proceed may, instead of such summary proceeding, enforce the remuneration to which he is entitled in the manner hereinafter mentioned. R.S.O. 1970, c. 353, s. 16.

Procedure for sale and disposal of proceeds

16. If it is proved by an affidavit sworn before a justice of the peace that the proper notices had been duly posted and published, then, if the owner or some one for him does not, before the sale of the animal, replevy or redeem it, the poundkeeper who impounded it or, if the person who distrained it did not deliver it to a poundkeeper but retained it in his own possession, any poundkeeper of the municipality may publicly sell it to the highest bidder at the time and place mentioned in the notices, and, after deducting the penalty and the damages, if any, and the fees and charges, shall apply the proceeds in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied, and of the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending it, or incidental thereto, and of the damage when legally claimable, not exceeding \$20, done by it to the property of the person by whom or at whose instance it was distrained, and shall return the surplus, if any, to its original owner, or, if not claimed by him within three months after the sale, the poundkeeper shall pay such surplus to the treasurer of the municipality. R.S.O. 1970, c. 353, s. 17.

Disputes regarding demand for damages, how determined

17.—(1) If the owner, within forty-eight hours after the delivery of the statements provided for in section 8 disputes the amount of damages so claimed, the amount shall be decided by the majority of three fence-viewers of

the municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the poundkeeper.

(2) The fence-viewers or any two of them shall, within twenty-four hours after notice of their appointment, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the statutes or by-laws in that behalf at the time of the trespass and if it was a lawful fence, or, if the animal was one not permitted to run at large by the by-laws of the municipality, they shall appraise the damages committed, and, within twenty-four hours after having made the view, shall deliver to the poundkeeper a written statement signed by at least two of them of their appraisal and of their lawful fees and charges.

Fence-viewers to view and appraise damage

(3) If, in the case of an animal permitted to run at large, the fence-viewers decide that the fence was not a lawful one, they shall so certify in writing under their hands, together with a statement of their lawful fees to the poundkeeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof, but, if not claimed or if such fees and charges are not paid, the poundkeeper, after due notice as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. R.S.O. 1970, c. 353, s. 18.

Where fence not lawful

18. If a poundkeeper or person who impounds or confines, or causes to be impounded or confined, an animal refuses or neglects to provide and supply it with good and sufficient food, water and shelter, he is guilty of an offence and on conviction is liable to a fine, for every day during which he is so in default, of not less than \$1 and not more than \$4. R.S.O. 1970, c. 353, s. 19.

Offence

19. Every fence-viewer who neglects his duty under this Act is guilty of an offence and on conviction is liable to a fine of \$2. R.S.O. 1970, c. 353, s. 20.

Idem

20. Every poundkeeper and every person who distrains an animal under section 9 shall, on or before the 15th day of January in every year, file with the clerk of the municipality a statement for the year ending on the 31st day of December next preceding showing,

Statement to be filed with clerk

- (a) the number of animals impounded or distrained, as the case may be;

- (b) the number of animals sold and the amounts received;
- (c) the sum received as poundage fees and cost of keep by the poundkeeper or party distraining;
- (d) the damages paid by any party;
- (e) all disbursements and to whom paid;
- (f) any receipts and expenditures in connection therewith. R.S.O. 1970, c. 353, s. 21.

Certifying statement

21. The statement shall be certified to by the poundkeeper or the person distraining as a true and accurate statement. R.S.O. 1970, c. 353, s. 22.

Offence

22. Every poundkeeper or other person required to file such return, who neglects or refuses to file it on or before the 15th day of January in any year, is guilty of an offence and on conviction is liable to a fine of not more than \$10. R.S.O. 1970, c. 353, s. 23.