

THE KERALA CATTLE TRESPASS ACT, 1961

(ACT 26 OF 1961)

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ACT 26 OF 1961

THE KERALA CATTLE TRESPASS ACT, 1961*

An Act to consolidate and amend the law relating to trespass by cattle in the State of Kerala;

Preamble.—WHEREAS it is necessary to consolidate and amend the law relating to trespass by cattle on lands and causing damage to crops and other produce thereon, in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

CHAPTER I

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Cattle Trespass Act, 1961.

(2) (a) It extends to the whole of the State of Kerala;

(b) The Government may, by notification in the Gazette, exclude any area from the operation of this Act from such date as may be specified therein.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) “cattle” means cows, oxen and bulls and includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, kids and fowls and such other kinds of animals as the Government may, by notification in the Gazette, specify;

(2) “Director” means the Director of Local Bodies appointed by the Government;

(3) “local authority” means any Municipal Corporation, Municipal Council or Panchayat, or, in area where there is no Municipal Corporation, Municipal Council or Panchayat, such authority as the Government may appoint in this behalf.

CHAPTER II

POUNDS AND POUND-KEEPERS

3. *Establishment of pounds.*—(1) Pounds may be established at such places in each district as the Director may, from time to time, direct.

(2) The area by which every pound is to be used shall be determined by the Director.

4. *Control of pounds and rates of charge for feeding impounded cattle*—The pounds shall be under the control of the local authority and that authority shall fix, and may, from time to time alter, the rates of charge for feeding and watering impounded cattle.

* Published in the Gazette Extraordinary dated 15th July 1961.

5. *Appointment of pound-keepers.*—(1) Every pound shall be in the charge of a pound-keeper appointed by the local authority concerned.

(2) Every pound-keeper shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) Every pound-keeper appointed by the local authority may be suspended or removed by that authority.

DUTIES OF POUND-KEEPERS

6. *To Keep registers and furnish returns.*—Every pound-keeper shall keep such registers, and furnish such returns as the Government may, from time to time, direct.

7. *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 cattle ;
- (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 the residence of the owner, if known.

The seizure shall affix his signature in the register. The pound-keeper shall give the seizure or his agent a copy of the entries aforesaid.

8. *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

9. *Cattle damaging land may be seized and police to aid such seizures*—

(1) The cultivator or occupier of any land, or any person who has acquired a right 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 area in which the land is situate.

(2) All officers of Police shall, when required, aid in preventing—

- (a) resistance to such seizures, and
- (b) rescues from persons making such seizures.

10. *Cattle damaging public roads, canals and embankments.*—Persons in charge of public roads, pleasure grounds, plantations wherein common grazing grounds are available, canals, drainage works, tanks embankments, and the like and officers of Police, officers employed by local authorities within their respective jurisdictions and such other officers as the Director may empower in this behalf, may seize, or cause to be

seized, any cattle doing damage to such roads, grounds, plantations, canals drainage works, tanks, embankments and the like or the sides or slopes of such roads, canals, drainage works, tanks or embankments or found straying thereon, and shall send them or cause them to be sent within twenty-four hours, to the nearest pound.

11. *Fines for cattle impounded.*—(1) 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 Director in this behalf by notification in the Gazette. Different scales may be prescribed for different local areas and for different kinds of cattle.

(2) Notwithstanding anything contained in sub-section (1), when it appears to the Director that in any local area cattle are habitually allowed to trespass on land and damage crops or other produce thereon, he may, by notification in the 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, such amount of fine as may be specified by him in the said notification, not exceeding double the fine prescribed under sub-section (1), shall be levied.

(3) All fines levied under this section shall be credited to the fund of the local authority or where there is no Municipal Corporation, Municipal Council or panchayat, in such manner as the Government may, from time to time, direct.

(4) A list of the fines and of the rates of charge for feeding and watering cattle shall be exhibited in a conspicuous place on, or near to, every pound.

CHAPTER IV

DELIVERY OR SALE OF CATTLE

12. *Procedure when owner claims the cattle and pays fines and charges.*—(a) If the owner of the impounded cattle or his agent appears and claims the cattle the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

(b) The owner or his agent, on taking back the cattle shall sign a receipt for them in the register kept by the pound-keeper.

13. *Procedure if cattle be not claimed within a week.*—(1) 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 local authority concerned or to such officer as the Director specifies in this behalf.

(2) The local authority or the other officer shall thereupon affix in a conspicuous part of its or 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 in the market place nearest to the place of seizure.

(3) If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the local authority or the said officer or any other officer subordinate to him deputed for that purpose, at such place and time and subject to such conditions as the Director, by general or special order, from time to time, directs.

Provided that if any such cattle are, in the opinion of the Director, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such other manner as he thinks fit.

14. *Delivery to owner disputing legality of seizure but making deposit.*—If the owner or his agent appears and refuses 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 19, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

15. *Procedure when owner refuses or omits to pay the fines and expenses.*—(1) If the owner or his agent appears and refuses or omits to pay or in the case mentioned in section 14 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 the local authority or by such officer, as the case may be, at such place and time, and subject to such conditions as are referred to in section 13.

(2) The fines leviable and expenses of feeding and watering together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

(3) The remaining cattle, and the balance of the proceeds of sale, 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.

(4) The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the proceeds of sale, if any, paid to him according to such account.

(5) If the owner or his agent refuses to receive the remaining cattle and the surplus proceeds of sale delivered to him, the cattle and the proceeds of sale shall be deemed to be unclaimed and disposed of according to the provisions of this Act.

16. *Disposal of fines, expenses and surplus proceeds of sale.*—(1) The officer by whom the sale was made shall send to the local authority the fines so deducted.

(2) The charges for feeding and watering deducted under section 15 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 12.

(3) The surplus unclaimed proceeds of the sale of cattle shall be sent to the local authority, who shall hold them in deposit, and if no claim thereto be preferred within three months and established, shall dispose of them as hereinafter provided.

17. *Application of fines and unclaimed proceeds of sale.*—(1) All sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be credited to the fund of the local authority or, where there is no Municipal Corporation, Municipal Council or Panchayat, in such manner as the Government may, from time to time, direct.

(2) The salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds or for any other purpose connected with the carrying out of the provisions of this Act shall be paid by the local authority.

18. *Officers and pound-keepers not to purchase cattle at sales under this Act.*—(1) No Police officer, or other officer or pound-keeper appointed under the provisions herein contained and no member of the local authority under whose control the pound is shall, directly or indirectly, purchase any cattle at a sale under this Act.

(2) No pound-keeper shall release or deliver any impounded cattle, otherwise than in accordance with the provisions of this Chapter, unless such release or delivery is ordered by the Director or the local authority or the Magistrate acting under Chapter V of this Act or a civil court, in writing stating the reasons for such order.

CHAPTER V

COMPLAINTS OF ILLEGAL SEIZURE AND DETENTION

19. *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 seizure, make a complaint to the District Magistrate or any Magistrate authorised to receive and try charges without reference by the Magistrate of the district.

20. *Procedure on complaints.*—(1) 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.

(2) 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.

21. *Compensation for illegal seizure or detention and release of cattle.*—(1) 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

(2) 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. *Recovery of compensation.*—The compensation, fines and expenses mentioned in section 21 may be recovered in the manner provided for the recovery of fines under the Code of Criminal Procedure, 1898.

CHAPTER VI

PENALTIES

23. *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.

24. *Penalty for damage caused to land or crops or public roads by cattle.*—Any owner, or keeper or attendant of cattle, who causes or suffers cattle to stray about without a keeper or 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 cattle to trespass thereon, shall, on conviction before a Magistrate, be liable to a fine not less than twenty-five rupees, but not exceeding two hundred and fifty rupees or to imprisonment for a term not exceeding three months, or to both.

25. *Recovery of penalty for mischief committed by causing cattle to trespass.*—Any fine imposed under section 24 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. *Powers of Police to investigate offences under section 24*—Notwithstanding the provisions contained in the Code of Criminal Procedure, 1898 any Police Officer may investigate without the order of a Magistrate into an offence under section 24 as if it were a cognizable case, but he shall not arrest without warrant from a Magistrate any person accused of offence under section 24.

27. *Penalty on pound-keeper failing to perform duties.*—Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 18, 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 sections 24, 25 and 27.*—All fines recovered under sections 24, 25 and 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 shall be deemed to prohibit any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent civil court.

30. *Set-off.*—Any compensation paid under this Act, by order of a convicting Magistrate, to a person whose crops or other produce of land have been damaged by trespass by cattle, shall be set-off and deducted from any sum due to that person as compensation in any civil suit referred to in section 29.

CHAPTER VIII

MISCELLANEOUS

31. *Delegation of powers.*—The Director may, by notification in the Gazette, delegate all or any of his powers under this Act to any Officer of his department and may by like notification withdraw such powers.

32. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) All rules made under this section shall be laid before the Legislative Assembly for a period of not less than fourteen days as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

33. *Repeal and Savings.*—The Travancore-Cochin Cattle Trespass Act, 1125 (Act XII of 1125) and the Cattle Trespass Act, 1871 (Central Act 1 of 1871) in its application to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, are hereby repealed; but notwithstanding such repeal all pounds established under the afore said Acts shall be deemed to be pounds established under this Act