

Impounding.

Act No. 6, 1898.

An Act to consolidate the Laws relating to the
Impounding of Live Stock. [27th July, 1898.]

IMPOUNDING.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Impounding Act, 1898," and is divided into Parts, as follows:—

Short title and division.

PART I.—*Preliminary*—ss. 1-3.PART II.—*Establishment of pounds—Appointment and duties of poundkeepers*—ss. 4-12.PART III.—*Impounding and detention of animals*—ss. 13-21.PART IV.—*Sale of impounded animals*—ss. 22-27.PART V.—*Fees, charges, and damages*—ss. 28-34.PART VI.—*Remedies of owners of impounded animals*—ss. 35-39.PART VII.—*Impounding by municipal councils*—ss. 40-43.PART VIII.—*Miscellaneous provisions*—ss. 44-59.

2. The Acts mentioned in the First Schedule hereto are hereby repealed:

Repeals and savings.
First Schedule.

Provided that all instructions transmitted to any poundkeeper and all charges fixed for the care and sustenance of impounded animals, and the day fixed by the Minister for the sale of impounded animals under any of the said Acts shall be deemed to have been transmitted and fixed respectively under this Act:

Provided further that all poundkeepers, inspectors of pounds, and officers appointed under any of the said Acts, in office at the commencement of this Act, shall remain in office as if this Act had been in force at the time they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

3. For the purposes of this Act the following terms in inverted commas shall, unless the context otherwise indicates, bear the meanings and include the things set against them respectively:—

Interpretation.
29 Vic. No. 2, s. 2.
32 Vic. No. 11, s. 1.
57 Vic. No. 31, s. 1.

"Animal" includes cattle, horses, sheep, goats, and swine, whether one or more.

"Cattle" includes bulls, cows, oxen, heifers, steers, calves, camels, and dromedaries.

"Competent

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- “Competent Court” means any two or more justices assembled at a court of petty sessions.
- “Horses” includes horses, mares, geldings, colts and fillies, asses, mules, and foals.
- “Justice” means any justice of the peace.
- “Occupant” means any holder or occupier of land under whatever tenure, or any superintendent, overseer, or other duly authorised person acting for and on behalf of any such occupant.
- “Owner” means any proprietor of animals, or any agent or overseer of any such proprietor.
- “Pound” means any public pound established under this Act.
- “Poundkeeper” means any person having the authorised charge of any public pound.
- “Sheep” includes rams, ewes, wethers, and lambs.
- “Sufficient fence” means such a fence or other means of enclosure, natural or artificial, as the petty sessions shall deem to be sufficient to prevent trespass by animals ordinarily controllable.

PART II.

Establishment of pounds—Appointment and duties of poundkeepers.

Pounds may be established.
29 Vic. No. 2, s. 3.

4. The Minister may, on the recommendation of the court of petty sessions of any district, by notice in the Gazette, fix upon and determine convenient places in such districts for establishing public pounds.

Poundkeepers to be appointed and give security.
Ibid. s. 4.

5. To every pound there shall be a poundkeeper, who shall be appointed by the majority of the justices assembled for that purpose in the court of petty sessions nearest to the said pound. And every poundkeeper before acting under such appointment shall enter into a bond to Her Majesty with sufficient sureties in such amount as may be deemed reasonable by such justices that he will well and truly perform the duties of such poundkeeper, and account for and pay over all moneys received by him in such capacity as by this Act directed.

Poundkeepers to keep pound-books, &c.
Ibid. s. 6.

6. (1) Every poundkeeper shall be supplied by the Government with a copy of this Act, and also with a pound-book in such form as shall be determined by the Minister, both of which, and also all printed instructions from time to time transmitted to such poundkeeper, he shall keep at his pound.

Entries in pound-book.

(2) Every poundkeeper shall enter legibly in writing in such book the particulars of all matters referred to therein under their proper heads at the time of such matters occurring or being done respectively, or as soon thereafter as possible.

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(3) The said pound-book and such instructions shall once in every month be produced to the petty sessions, and with this Act be open at the pound at all reasonable times to any justice or police officer or to any person authorised in that behalf by the Minister free of charge, and to any other person on payment of sixpence, and the poundkeeper shall supply extracts therefrom signed by himself at the rate of one shilling for one hundred words or less, and sixpence for every additional hundred words or less.

Production, inspection, &c., of pound-book.

(4) Every poundkeeper shall, at the time of his ceasing to hold such office, deliver up such pound-book, copy of this Act, and instructions to the petty sessions.

Pound-book, &c., to be handed up.

7. Every poundkeeper shall also keep a book in which he shall from time to time enter the descriptions of all stray animals coming under his observation, with the names and addresses of their owners if know to him, and such other particulars as may lead to the recovery of them by their owners, and such books shall at all reasonable hours be open to the inspection of any person on payment of a fee of one shilling.

Book for particulars of stray animals. 29 Vic. No. 2, s. 7.

8. Every poundkeeper shall at his own cost keep the pound to which he is appointed clean and in good repair, and shall supply the animals impounded therein with sufficient and wholesome food and water, having regard to the capabilities of the district and the circumstances of the season, and the poundkeeper may send such animals out of his pound at fit times and to fit places for grazing or watering :

Poundkeeper to repair and to provide sustenance. *Ibid.* s. 8.

Provided that every poundkeeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any wilful act or neglect of himself or his servants.

9. Every poundkeeper shall keep on or near to some conspicuous part of the pound, a board containing in legible white letters on a black ground, a table of all fees and charges which he is authorised to demand under this Act, and all rates of damage fixed by the Second Schedule hereto. And if he fails to keep such board in proper repair, or neglects to make necessary alterations therein within a reasonable time, or allows any false statement to be thereon, he shall be liable for every day of such offending to a penalty not exceeding five pounds.

Poundkeeper to erect board with table of fees and charges. *Ibid.* s. 10. Second Schedule.

10. Within twenty-four hours after the impounding of any animals the poundkeeper shall post a written notice on the gate or on some other conspicuous part of the pound, setting forth a description of such animals with their brands and marks ; and such notice shall remain so posted until such animals shall have been claimed or otherwise disposed of, according to this Act. And every poundkeeper who neglects to post such notice or to keep the same so posted shall for every day of such neglect be liable to a penalty not exceeding forty shillings.

Poundkeeper to post on gate notice of animals in pound. *Ibid.* s. 13.

11. (1) When any cattle, horses, or sheep impounded in a pound are not immediately claimed by the owner or some one on his behalf

Notice of impounding to be sent to owners. *Ibid.* s. 14.

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the poundkeeper shall, within twenty-four hours thereafter, send a notice to the owner, if known and residing within ten miles of the pound, and if residing at a greater distance then by registered letter through the general post :

Provided that every owner residing within ten miles of a pound may instruct the poundkeeper in writing by which of such modes such notice shall be sent, and the poundkeeper shall act accordingly.

(2) Such notice shall contain—

- (a) a description of such animals with their brands and marks ;
- (b) the name of the place from which, and of the person by whom, they are impounded ;
- (c) the date of their impounding ;
- (d) a statement of the time and place of their intended sale if not duly released ; and
- (e) the sum which is at the date of such notice lawfully chargeable on the same.

(3) When the poundkeeper knows who is the owner of any impounded goats or swine and such owner resides within three miles of the pound, the poundkeeper shall forthwith send such owner notice of the impounding.

Notice to persons
unknown.
29 Vic. No. 2, s. 15.

12. If the owner of any impounded animals be not known to the poundkeeper, the poundkeeper shall post a like notice at the nearest court of petty sessions ; if such court is within twenty-five miles of the place of impounding the poundkeeper shall post such notice within twenty-four hours after the impounding, and if not, then shall post such notice with reasonable speed ; and the poundkeeper shall also with all possible despatch insert such notice in the Gazette and a local newspaper.

PART. III

Impounding and detention of animals.

Pounds in which
animals trespassing
are to be impounded
Ibid. s. 22.

13. Any occupant upon whose land any animals are trespassing may drive or otherwise take or send the same to the pound nearest by a practicable road or highway to the land where the same are trespassing, or if such land be equidistant or nearly so from two pounds, then to either thereof ; or if there be no poundkeeper at the nearest pound, then to the nearest pound having a poundkeeper ; and may on any business day between sunrise and sunset deliver them to the poundkeeper to be impounded.

Temporary deten-
tion in place other
than a pound.
Ibid. s. 23.

14. Any occupant upon whose land any animals are trespassing may, if he knows their owner, temporarily impound the same in any convenient place on his own premises for a period not exceeding four days :
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Provided that such occupant shall within twenty-four hours give like notice to such owner as is hereinbefore required to be given by the poundkeeper in the case of animals not immediately claimed, and shall feed and maintain such animals while so impounded, and may at the expiration of such time impound them, if not sooner duly released, in accordance with the provisions of the last preceding section :

Provided also that such occupant may make a charge for feeding and maintaining such animals, and for sending such notice, not exceeding such as might by law be made by the nearest poundkeeper, but shall not be entitled to any compensation for damage, except for such as was done before the temporary impounding :

Provided always that any occupant contemplating impounding any animals may detain them on his own premises for twenty-four hours before impounding them.

15. Any occupant may send any animals trespassing on his land to any convenient place near the residence of the owner, and may at the same time demand from the owner payment of the damage done according to the rate fixed by the Second Schedule hereto, together with the charges for driving as fixed by the Third Schedule hereto ; and thereupon such owner shall pay the same as satisfaction of such trespass, or in default thereof the occupant may recover the same as a debt in the nearest competent Court with reasonable costs of suit.

Animals trespassing may be sent home and damage recovered.
29 Vic. No. 2, s. 24.
Second Schedule.
Third Schedule.

16. Any occupant may detain any animals trespassing on his land, and give notice to the owner thereof of such detention stating where they are, and requiring him to remove them, and may demand damages according to the rate in the Second Schedule hereto and costs of sending such notice ; and if not released within twenty-four hours after such notice has been given he may turn such animals at large, and may recover in a competent Court such damages as aforesaid and also such charges for sending such notice as are hereinafter provided to be paid to a poundkeeper for similar service.

Occupant may detain animals and recover damages after notice.
Ibid. s. 25.
Second Schedule.

17. Any person duly authorised in that behalf by the Minister, or by any magistrate, or police officer, may lodge any animals lawfully in the possession or custody of such person in any pound for safe custody, and may remove or authorise the removal of the same at his discretion. And in every such case the only charge which may be made by the poundkeeper shall be the cost of sustaining such animals according to the scale for sustenance as aforesaid.

Lodging animals for safe custody.
Ibid. s. 26.

18. Occupants of unenclosed Crown lands through which any public road or thoroughfare passes may not impound any cattle, horses, or sheep, travelling along or through any such road or thoroughfare, unless they be at the time of seizure at a greater distance from the centre thereof than half a mile :

Animals more than half a mile from road may be impounded.
Ibid. s. 30.

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Provided that, unless prevented by rain or flood, such cattle or horses shall be moved on or along such road or thoroughfare at least ten miles, and such sheep at least six miles in one direction within every successive period of twenty-four hours.

Impounder to furnish certain particulars.

42 Vic. No. 23, s. 9.

19. Every person impounding any animal in any pound shall in writing inform the poundkeeper of—

- (a) the place where the animal was trespassing when seized for impounding ;
- (b) the kind of fence (if any) round such place ;
- (c) the crop (if any) upon such place ;
- (d) the amount of damages for trespass and other charges claimed by him in respect of such animal ; and
- (e) the name and address if known to the impounder of the owner or supposed owner of such animal ;

and every person failing to do so or wilfully making any misstatement as to any such matter shall be liable to a penalty not exceeding five pounds.

Animals on their way to pounds, &c., may be released.

Ibid. ss. 1 & 10.

20. The owner of any animal which has been seized for trespass, or any person in his behalf, may at any time before such animal has been placed in a pound or otherwise disposed of in accordance with this Act, release the same by paying the sum of money lawfully chargeable for damages for trespass, rates for driving, tolls, ferry dues, and other charges authorised by this Act up to the time of release, which sum the person in charge of the animal shall make known on demand, and on his failing to do so or to give up the animal on tender of the sum stated to be claimed he shall be liable to a penalty not exceeding five pounds.

Poundkeeper not to impound in his own pound.

42 Vic. No. 23, s. 12.

21. Any poundkeeper or person authorised by him who impounds any animal in the pound of which such poundkeeper is the keeper shall, unless such animal was trespassing upon land occupied by such poundkeeper, be liable to a penalty not exceeding twenty pounds.

PART IV.

Sale of impounded animals.

One day only in week to be fixed for sales.

29 Vic. No. 2, s. 5.

22. The Minister may by notice in the Gazette fix some one day in every week on which sales of impounded animals may take place at noon at every pound in New South Wales. And every such sale shall take place on such day only unless it be Good Friday, Christmas Day, or any public holiday, and then on the next business day not being a public holiday.

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23. Every poundkeeper may, notwithstanding anything in this Act contained, without any other preliminary than an order obtained from a justice, sell at the next appointed day of sale any unbranded cattle or horses above the age of twelve months which have been impounded, and shall pay over two thirds of the proceeds of their sale to the occupant impounding them: Provided that this section does not apply to camels or dromedaries.

Unbranded cattle be sold outright.
29 Vic. No. 2, s. 18.
57 Vic. No. 31, s. 3.

24. Any poundkeeper may under the written authority of any owner of impounded animals sell the same at the then next appointed day of sale.

Animals may be sold on authority of owner.

25. All sales of impounded animals under this Act shall be held at noon by auction at the pound by the poundkeeper, who may so sell without an auctioneer's license, and no auction duty shall be paid; and a sufficient hand-bell shall be rung for fifteen minutes at the least before every such sale:

29 Vic. No. 2, s. 19.
Mode of sale.
Ibid. s. 20.

Provided that not more than ten sheep or goats or five swine shall be put up in one lot, nor more than one horse or one head of cattle, unless in the case of a cow with her calf or a mare with her foal, such calf or foal being under six months old:

Provided further that the poundkeeper or his surety or any justice ordering the sale shall, if he purchase any animal sold, be liable to a penalty not exceeding twenty pounds.

26. (1) Every poundkeeper shall apply the proceeds of all sales of impounded animals in payment first of the pound fees, of the charges for sending notices, and for advertising, and for sustenance, all which he may keep to his own use.

Application of proceeds of sale and account.
Ibid. s. 21.

(2) Every poundkeeper shall, within ten days after the end of every month, furnish to the clerk of petty sessions a transcript from the pound-book for the previous month, and shall at the same time pay to such clerk the remainder of such proceeds and other charges authorised by this Act, except trespass damages lawfully due to the person impounding, if claimed previously to making any monthly payment

(3) Such clerk shall, on receipt of such transcript and moneys, compare and verify the same, and cause any error or omission therein to be rectified by such poundkeeper, and on being satisfied of their accuracy shall forthwith forward such transcript with a certificate of such accuracy to the Colonial Treasurer, together with such moneys and also all other moneys then in his hands arising from penalties under this Act, and shall affix a copy of such transcript on some conspicuous part of the Court-house for at least one month for general information.

27. (1) Where any cattle, horses, or sheep impounded in a pound are not duly released within four days after notice duly served on the known owner thereof—or in case the owner is not known within fourteen days

Proceedings as to unclaimed animals prior to sale.
Ibid. s. 29.

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days after such notice shall have been duly advertised, such periods respectively being reckoned exclusive of the day of such service or of the first advertisement of such notice — any justice upon being satisfied that the poundkeeper has complied with the provisions of this Act, may by order under his hand, authorise the sale of such cattle, horses, or sheep, and such sale may take place on a sale day to be advertised.

(2) Any goats or swine impounded may be sold on any business day of which notice shall have been posted on the pound, not being less than three days after their impounding.

PART V.

Fees, charges, and damages.

Pound fees.
29 Vic. No. 2, s. 9.

28. Every poundkeeper may demand and retain for his own use for all animals impounded the following fees:—

- (1) For the first or only head of goats or swine, sixpence; and for every additional head thereof not exceeding ten, impounded at the same time and by the same person, threepence; and for every additional head so impounded, one penny.
- (2) For the first or only head of cattle, sixpence; and for every additional head not exceeding ten, impounded at the same time and by the same person, threepence; and for every additional head so impounded, one penny.
- (3) For the first or only horse, one shilling; and for every additional horse not exceeding ten, impounded at the same time and by the same person, sixpence; and for every additional head so impounded, threepence.
- (4) For the first or only sheep, threepence; and for every additional sheep not exceeding ten, impounded at the same time and by the same person, one penny; and for every additional sheep so impounded, one farthing.

Fees for notices of
impounding.
Ibid. s. 16.

29. Every poundkeeper shall demand and receive from the owner of any animal impounded, for every notice duly sent by post, one shilling, and if sent otherwise, at the rate of sixpence per mile of the distance not exceeding ten miles travelled in proceeding to the residence of such owner, and the actual costs of inserting any notice in the Gazette and local newspaper:

Provided that one notice only shall be charged for any number of animals belonging to the same owner and impounded at the same time:

Provided also that every poundkeeper may detain all animals impounded until all fees and charges authorised by this Act are paid or tendered, or until such animals are sold.

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30. The charges for the care and sustenance of animals impounded in any pound as directed by section eight of this Act, shall be fixed for each pound from time to time by the majority of justices assembled for that purpose in the court of petty sessions, and shall be published in the Gazette.

Charges for care and sustenance of impounded animals.
29 Vic. No. 2, s. 8.

31. No charge for the sustenance of animals which have been impounded shall be demanded by the poundkeeper for the day on which the same were so impounded, unless such animals shall have been impounded and fed and watered or sent out to pasture before three o'clock in the afternoon of that day, nor shall such charge be payable for the day on which such animals are released, if the same are released before nine o'clock in the forenoon of that day.

Limiting charges for sustenance.
42 Vic. No. 23, s. 13

32. Any occupant impounding any animals in any pound may charge and receive for them respectively to his own use the rates of damage according to the scale in the Second Schedule hereto, and rates per mile for driving them according to the scale in the Third Schedule hereto, as well as all tolls or ferry dues incurred in such driving.

Rates of damage and for driving.
29 Vic. No. 2, s. 11.
Second Schedule.
Third Schedule.

33. In every case in which the same animal shall be found trespassing on the same land more than once, and any such trespass shall take place within twenty-one days after any preceding such trespass, there shall be charged for the second and every other such trespass twice the rates of damage set forth in the Second Schedule hereto, together with rates for driving according to the Third Schedule hereto, as well as all tolls or ferry dues incurred in such driving.

Increasing charge for repeated trespasses.
Ibid. s. 12.
Second Schedule.
Third Schedule.

34. The owner of any entire horse or bull above the age of one year, which may be impounded or detained under the provisions of this Act, shall be liable to pay by way of damages for every such horse or bull any sum not exceeding five pounds to the occupant impounding the same, besides all the legally authorised poundage fees; and if the owner does not release any such animal, and it does not realise at the poundkeeper's sale sufficient to pay the said damages, besides the poundage fees, such owner shall pay the balance to such occupant, and such balance may be recovered before any two justices in petty sessions:

Owners of entire horses and bulls to pay £5 damages.
29 Vic. No. 2, s. 31.
42 Vic. No. 23, s. 6.

Provided that such owner shall not be liable to pay any damages as aforesaid if the land trespassed upon was not enclosed by a sufficient fence at the time of the trespass.

PART VI.

Remedies of owners of impounded animals.

35. If the owner of any animal impounded disputes the sum of money claimed for rates for driving, tolls, ferry dues, or other charges authorised by this Act, or the impounding as not being in accordance with

Owner of impounded animal may complain against sum claimed or impounding.
Ibid. ss. 1 & 2.

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with the provisions of this Act, or if the owner of any entire horse or bull impounded, and for which special damages are claimed under the thirty-fourth section of this Act, disputes that any such damages did or could accrue from the trespass of such entire horse or bull, he may, in any such case, make his complaint in manner hereinafter provided, and may either allow the animal to remain in the pound or pay to the poundkeeper the pound fees and charges demandable by him as well as the sum of money or damage claimed (if any) and release the animal, and in either case shall give the poundkeeper notice in writing of his intention to complain, and upon receipt of such notice the poundkeeper shall not pay over any such sum of money or damages (if any) but keep the same in his possession until the decision of the justices shall be made known to him in the manner hereinafter mentioned or until the expiration of the time hereinafter mentioned.

Proceedings at hearing of complaint against sum claimed or impounding when upheld.
42 Vic. No. 23, ss. 1 & 3.

36. The owner aforesaid may make his complaint in writing within fourteen days of the date of the said notice to any justice, who shall thereupon issue a summons to the impounder to appear before two or more justices at the court of petty sessions nearest to the pound where the animal shall have been impounded, and the justices then assembled shall summarily hear and determine such complaint, and if it appears to them that such sum of money or damages (if any) claimed are or the impounding was contrary to the provisions of this Act, or if special damages have been claimed under the thirty-fourth section of this Act for the trespass of an entire horse or bull that no such damages did or could accrue therefrom, they shall adjudge accordingly, and may make such order for costs and expenses, which shall include any pound fees which the owner has paid or will have to pay, as they shall think fit, and shall issue an order to the poundkeeper for the release of the animal impounded on payment by the owner of the pound fees and charges due up to the day of release, or for the return of any such sum of money or damages which may have been paid to him, as the case may be.

Steps to be taken if complaint dismissed.
Ibid. ss. 1 & 4.

37. If on the hearing of any complaint as aforesaid the justices shall dismiss the same, they shall deliver a minute of such dismissal to the impounder, and the poundkeeper on receipt of such minute shall, if the animal impounded shall have been left in the pound, take the same course in regard to the detention of the animal and its sale as if the animal had been detained under ordinary circumstances, except that it shall not be released until payment shall have been made of the pound fees and charges due up to the day of release, but if the animal shall have been released, the poundkeeper shall pay over to the impounder any such sum of money or damages which he may have received as aforesaid, and the justices may make such order for costs and expenses as they shall think fit.

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38. If after a written notice of intention to complain as hereinbefore provided has been given to any poundkeeper he shall not have received an order or minute as aforesaid within one month from the date of such notice he shall act and proceed in regard to the animal impounded or the sum of money or damages (if any) paid to him as aforesaid as if no such notice had been given to him.

How poundkeeper to act on non-receipt of order after notice of intention to complain has been lodged.
42 Vic. No. 23, ss. 1 & 5.

39. Any costs and expenses awarded under sections thirty-six and thirty-seven of this Act shall be recoverable by distress and sale of the goods and chattels of the person ordered to pay the same, and in default of sufficient distress he shall be liable to imprisonment with or without hard labour for any period not exceeding one month, unless such costs and expenses shall be sooner paid.

How costs and expenses to be recovered.
Ibid. s. 11.

PART VII.

Impounding by municipal councils.

40. The council of every municipality and the municipal council of Sydney shall, in respect of any street, square, road, lane, reserve, park, or land of whatever kind vested in or under the control and management of any such council by virtue of any Act now or hereafter to be in force, have power to impound any animals found straying, wandering, or at large in any such street, square, road, or lane, or when found trespassing in or on any such reserve, park, or land enclosed by a sufficient fence, as if such council were the occupant thereof within the meaning of this Act, and the powers of sale and other powers exercisable under this Act shall apply to all animals impounded under this Part:

Power of municipal councils to impound.
45 Vic. No. 13, s. 2.

Provided that every liability and obligation imposed upon an occupant by this Act or by any other Act relating to impounding shall in corresponding cases be applicable and attach to every such council and to the revenues thereof.

41. The rates of damage for trespass specified in the second column of the Second Schedule hereto in respect of the animals described in the first column of that Schedule, and the mileage rates for driving or taking animals to pound specified in the Third Schedule hereto, shall, subject to the increased rates of damage and the other charges provided by section thirty-three of this Act for repeated trespass, be the damage and driving rates respectively chargeable in respect of animals impounded by any Council under this Part.

Damage and driving rates.
Ibid. s. 3.
Second Schedule.
Third Schedule.

42. Nothing in this Part shall affect or prejudice any municipal by-law duly made, confirmed, and published, under which any penalty is or shall be imposed upon the owners or persons in charge of animals found at large, straying, or otherwise in contravention of any such by-law.

Saving as to municipal by-law.
Ibid. s. 4.

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Impounding officer.
45 Vic. No. 13, s. 5.

43. Every such council as aforesaid shall have power to appoint under their corporate seal an officer of such council to impound animals under this Part, and to exercise all powers vested in occupants, and to perform and be liable in respect of all duties imposed on impounders by the law in force relating to impounding.

PART VIII.

Miscellaneous provisions.

Goats or swine
trespassing may be
destroyed.
29 Vic. No. 2, s. 27.
36 Vic. No. 18, s. 1.

44. The occupant of any lands enclosed by a fence, sufficient for cattle and horses ordinarily controllable, may destroy any goats or swine found trespassing thereon :

Provided that this section shall not apply to branded Angora goats or other branded goats producing hair used in or adapted for the manufacturer of cloth or other textile fabrics.

Unbranded cattle or
horses trespassing
may be destroyed.
Ibid. s. 28.
57 Vic. No. 31, s. 3.

45. Any occupant finding any unbranded cattle or horses above the age of two years, trespassing on his land, may destroy the same :
Provided that this section does not apply to camels or dromedaries.

Animals not to be
driven away without
notice to occupant.
29 Vic. No. 2, s. 32.

46. Every person who drives or attempts to drive any animals, being his own or belonging to any person duly authorising him, from the land and out of the herds or flocks of any occupant without first giving him two days' notice if required of his intention so to do, or who, having given such notice, proceeds to carry it into effect without calling upon the occupant to enable him if he pleases to accompany him, or send a servant to do so, shall be liable to a penalty not exceeding five pounds ; and every person who so drives or attempts to drive any animals not being his own, or not belonging to some person duly authorising him as aforesaid, shall be liable to a penalty not exceeding ten pounds :

Provided that nothing herein shall affect any criminal proceeding for such driving if applicable thereto :

Provided further that no owner of animals trespassing upon the land of any occupant shall be empowered to demand to exercise such right in respect of such occupant more than once in the same month.

Penalty for rescue.
Ibid. s. 33.

47. Every person who rescues, or incites, or assists, any other person in rescuing any animal lawfully impounded, or seized for the purpose of being impounded, shall be liable in any competent Court to all costs and damages lawfully chargeable thereupon, and also to a penalty not exceeding twenty pounds.

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48. Every person who wilfully lets in or knowingly suffers to enter upon any cultivated land of any occupant any animals without due authority, shall be deemed guilty of a wilful trespass and shall be liable for every such offence to a penalty not exceeding twenty-pounds :

Provided that no conviction of such offence shall effect any civil remedy against such offender.

49. In every case in which more occupants than one hold lands enclosed by one common outward sufficient fence, such lands shall for the purposes of the Second Schedule hereto be deemed as against all persons outside such common fence to be sufficiently fenced, but as against each other in cases where no sufficient fence stands between them shall be deemed to be unenclosed lands.

50. If the occupant of any land having an insufficient dividing fence fails to make or repair his portion thereof, and the occupant of the adjoining land has erected or kept in repair his portion thereof, such last-mentioned land shall be deemed to have a sufficient fence as against the trespass thereon of any animal of which the first-mentioned occupant is the owner.

51. Every poundkeeper who—

- (a) takes or demands any sum for anything done by him under this Act otherwise than is hereby authorised ; or
- (b) fails to pay to any occupant on demand any damages received by him from the owner of animals impounded by such occupant ; or
- (c) fails duly to provide sustenance to any such animals ; or
- (d) works any cattle or horses impounded ; or
- (e) as such poundkeeper does or neglects anything contrary to the provisions of this Act whereby damage is incurred by the Crown or by any person,

shall be liable to a penalty not exceeding ten pounds, and may also in respect of any such last-mentioned offence be ordered by any competent Court to make compensation for such damage.

52. Every poundkeeper or other person wilfully doing any act or thing contrary to the provisions of this Act, or wilfully neglecting to comply with any requirement or condition of this Act for which no other punishment is provided, shall, for every such offence, be liable to a penalty not exceeding five pounds.

53. Whosoever unlawfully and wilfully leaves open any gate or slip-panel, or makes any gap in any fence, thereby permitting or causing any animal to trespass, or otherwise wilfully causes any animal to trespass, or illegally impounds any cattle, or drives any cattle without proper authority on or from the land of any other person, shall, for every such offence, be liable to a penalty not exceeding five pounds.

Impounding.

Inspectors of pounds
42 Vic. No. 23, s. 14. **54.** The Minister may appoint inspectors of pounds without salary, who shall, subject to his instructions, have the supervision and control of such pounds and poundkeepers as may from time to time, by notice in the Gazette, be committed to their charge, and such inspectors may enter at any time on any land to inspect any animals impounded or detained for the purpose of being impounded, and any person refusing to allow an inspector to enter as aforesaid, or hindering or impeding him in the execution of his duty, shall be liable to a penalty not exceeding ten pounds.

Summary jurisdiction.
Ibid. s. 16. **55.** Every penalty incurred under this Act not otherwise provided for may be recovered in a summary way before two or more justices.

Title to land in dispute.
Ibid. s. 3. **56.** Nothing in this Act shall give jurisdiction to any justices in any matter where the title to land is bona fide in question.

Advertising in local newspapers.
29 Vic. No. 2, s. 36. **57.** Whenever this Act contains a direction to insert any notice in a local newspaper, such insertion may be dispensed with unless it can be made at a cost not exceeding the charge authorised for advertising such notice in the Gazette.

Common law right of action preserved.
Ibid. s. 37. **58.** Nothing herein shall interfere with the common law right of proceeding for damages :

Provided that if the plaintiff in any such proceeding does not recover more than damages according to this Act he shall not be entitled to costs from the defendant.

Application of moneys by Colonial Treasurer.
Ibid. s. 38. **59.** The Colonial Treasurer shall keep a separate account of all moneys accruing under this Act, and in case no claim to the same shall be duly made within two years next after the said moneys shall have been paid into the hands of the Colonial Treasurer, the Governor may, by warrant under his hand, direct the same to be paid to the treasurer or other authorised officer of any benevolent society or hospital established or to be established in any district of New South Wales for the relief of such poor persons as through age, sickness, accident, or infirmity are unable to support themselves :

Provided that in any district in which there is no benevolent society or hospital, the same shall be paid towards the support of the nearest benevolent society or hospital.

Impounding.

SCHEDULES.

FIRST SCHEDULE.

Reference to Acts.	Titles of Acts.	Extent of Repeal.
29 Vic. No. 2 ..	An Act to regulate the Impounding of Live Stock..	The whole Act.
32 Vic. No. 11 ..	An Act to amend the Impounding Act of 1865 ..	The whole Act.
36 Vic. No. 18 ..	An Act to amend the law authorising the destruction of goats.	So much as relates to the Impounding Act of 1855.
42 Vic. No. 23 ..	An Act to amend the Impounding Act of 1865 ..	The whole Act.
45 Vic. No. 13 ..	An Act to amend in certain particulars the Impounding Act 29th Victoria No. 2.	The whole Act.
57 Vic. No. 31 ..	An Act to further amend the Impounding Act of 1865 and the Acts amending the same, and to amend the Public Watering Places Act of 1884.	Sections 1 and 3.

SECOND SCHEDULE.

Rates of damage to be charged for trespass.

Description of animals trespassing.	In any paddock of grass enclosed by a sufficient fence.		In any garden, uncut meadow, or growing crop of any kind enclosed by a sufficient fence.	
	s.	d.	s.	d.
For every horse, mare gelding, colt, filly, ass, mule, bull, cow, ox, heifer, steer, calf, camel, dromedary	1	0	4	0
For every ram, ewe, sheep, or lamb ..	0	1	0	4
For every goat	2	0	6	0
For every pig				

Sections 32, 33, 41, and 49.

29 Vic. No. 2.
57 Vic. No. 31.

THIRD SCHEDULE.

Rates of mileage for driving or taking animals to pound.

Description of animals trespassing.	Per mile.
Every horse, mare, gelding, bull, cow, ox, heifer, steer, calf, camel, dromedary.	For the first, threepence ; and for every other, trespassing and impounded at the same time, one half-penny.
Every one hundred rams, ewes, sheep, or lambs, or under that number.	Sixpence for the first hundred, and one penny for every hundred or portion of a hundred above that number.
Every goat	One half-penny.
Every pig	One shilling.

Sections 32, 33, and 41.

29 Vic. No. 2.
57 Vic. No. 31.