



ANALYSIS

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1980, No. 59

An Act to amend the Impounding Act 1955

[28 November 1980]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Impounding Amendment Act 1980, and shall be read together with and deemed part of the Impounding Act 1955 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1981.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “driving charges”, and substituting the following definition:

“‘Driving charges’ means all charges payable under section 15 of this Act.”

(2) The said section 2 (1) is hereby further amended by repealing the definition of the terms “fence” and “fenced land”, and substituting the following definition:

“‘Fence’ means an adequate fence within the meaning of the Fencing Act 1978; and ‘fenced land’ means land enclosed within such a fence.”.

(3) The said section 2 (1) is hereby further amended by repealing the definition of the term “ordinary general fund” (as substituted by section 8 (3) of the Local Government Amendment Act 1979), and substituting the following definition:

“‘Ordinary general fund’ means the general revenues of a local authority.”.

(4) The said section 2 (1) is hereby further amended by repealing the definition of the term “road”, and substituting the following definition:

“‘Road’ means any place open to or used by the public as of right; and includes a river bed and riparian land under the control of any local authority, Regional Council, United Council, Catchment Board, Catchment Commission, or the Waikato Valley Authority, unless any occupier of land adjoining the river bed or riparian land is also the lawful occupier of that river bed or riparian land.”.

(5) The said section 2 (1) is hereby further amended by repealing the definition of the term “stock”, and substituting the following definition:

“‘Stock’ includes any horse, cattle, deer, ass, mule, sheep, pig, or goat of any description.”.

(6) Section 2 (3) of the principal Act (as substituted by section 2 (2) of the Impounding Amendment Act 1968) is hereby amended by omitting the words “State highway, main highway”, and substituting the words “regional road, State highway or motorway”.

3. References to Governor-General as local authority removed—(1) Paragraph (c) of the proviso to section 3 of the principal Act is hereby amended by omitting the word “Governor-General”, and substituting the words “Minister of Works and Development”.

(2) Section 42 (1) of the principal Act is hereby amended by omitting the words “where the Governor-General is the local authority, signed by the Commissioner of Crown Lands for the district, or, where a Commissioner appointed under any Act is the local authority, signed by that Commissioner”, and substituting the words “where the Minister of Works and Development is the local authority, signed by any person authorised by that Minister to sign such a written authority”.

4. Poundage fees and sustenance charges—The principal Act is hereby amended by repealing section 14, and substituting the following section:

“14. (1) The local authority may, by resolution publicly notified, set reasonable poundage fees which shall be recoverable from the owner of stock impounded in its pound.

“(2) In setting poundage fees under subsection (1) of this section, the local authority may—

“(a) Set different fees for different classes of stock:

“(b) Set a graduated scale of fees for the repeated impounding of the stock of any particular owner.

“(3) In addition to any poundage fees recoverable by the local authority, that authority may also recover from the owner of stock impounded in its pound the actual costs, reasonably incurred, in the sustenance of the impounded stock of that owner.

“(4) The person impounding stock shall not be liable to pay to the local authority any fees or charges recoverable under this section.”

5. Driving charges—The principal Act is hereby amended by repealing section 15, and substituting the following section:

“15. (1) The owner of any stock that is found trespassing, straying or wandering on any road shall pay to the local authority or person having custody of the stock all reasonable costs incurred in leading, driving, or conveying the stock from the place where it is found to the pound or to the place where it is delivered to the owner.

“(2) The charges payable under subsection (1) of this section shall be payable to the local authority in the first instance if the stock is impounded, or direct to the person having custody of the stock in any other case.

“(3) Without limiting the generality of subsection (1) of this section, the charge made may take account of—

“(a) The distance covered and the time involved in delivering the stock to the pound or the owner; and

“(b) The number and class or classes of stock delivered; and

“(c) Where stock is conveyed by any vehicle, the reasonable cost of that conveyance, including the dispatch of the vehicle to the place where the stock is found and the return of the vehicle to the place of dispatch.

“(4) Notwithstanding anything in this section, the local authority or, as the case may be, the person having custody of the stock and delivering it to the owner, may make a minimum charge of \$5.”

6. Regulations as to trespass rates—The principal Act is hereby amended by inserting, after section 15 (as substituted by section 5 of this Act), the following section:

“15A. (1) Without limiting the general power to make regulations conferred by section 67 of this Act, regulations may be made under that section prescribing the trespass rates payable under this Act.

“(2) Any such regulations may prescribe different rates according to the description of the stock trespassing and according to the description of the land or crops trespassed upon.”

7. Damages for trespass—Section 26 (1) (d) of the principal Act is hereby amended by inserting, after the words “town district”, the words “or a community constituted under section 57 of the Local Government Act 1974”.

8. Expenses incurred in impounding stock straying or wandering on roads—Section 33 (3) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the words “, not exceeding 50 cents per head for the first twenty head, and 25 cents for all over that number,”, and substituting the word “reasonably”.

9. Certain fines and charges increased—The principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended—

- (a) By omitting from section 17 the expression “\$40”, and substituting the expression “\$200”;
- (b) By omitting from section 28 the expression “\$10”, and substituting the expression “\$50”;
- (c) By omitting from section 33 (1) the words “\$20 for every head thereof and in the case of other animals, to a fine not exceeding \$10”, and substituting the words “\$100 for every head thereof and, in the case of other animals, to a fine not exceeding \$50”;
- (d) By omitting from section 57 (1) the expression “\$100”, and substituting the expression “\$500”;
- (e) By omitting from section 57 (2) the expression “\$20”, and substituting the expression “\$100”;

- (f) By omitting from section 58 (1) the expression “\$100”, and substituting the expression “\$500”:
- (g) By omitting from section 58 (2) the expression “\$20”, and substituting the expression “\$100”.

10. Consequential amendments—(1) Section 16 of the principal Act is hereby amended by omitting the words “set out in the Third Schedule to”, and substituting the words “prescribed by regulations made under”.

(2) Section 17 of the principal Act is hereby amended by omitting the words “fixed by”, and substituting the words “prescribed by regulations made under”.

(3) Section 27 of the principal Act is hereby amended by omitting the word “provided”, and substituting the words “prescribed by regulations made”.

(4) Section 31 (1) of the principal Act is hereby amended by omitting the words “specified in the Third Schedule to”, and substituting the words “prescribed by regulations made under”.

(5) Section 31 (1) of the principal Act is hereby further amended by omitting the words “specified in the said Third Schedule”, and substituting the words “prescribed by regulations made under this Act”.

11. Consequential repeals—(1) The First, Second, and Third Schedules to the principal Act are hereby repealed.

(2) Sections 2 (1) and 3 of the *Impounding Amendment Act 1968* and the Schedule to that Act are hereby repealed.

(3) So much of Part III of the Third Schedule to the *Local Government Amendment Act 1979* as relates to—

- (a) The definition of the term “ordinary general fund” in section 2 (1) of the principal Act; and
 - (b) Section 63 of the principal Act,—
- is hereby repealed.