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Pounds Act, 1966

Act 24 of 1966

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Pounds Act, 1966
Contents

- Part I – Preliminary 1
 - 1. Short title 1
 - 2. Interpretation 1
- Part II – Pounds 2
 - 3. Establishment 2
 - 4. Existing pounds 2
 - 5. Disestablishment 2
- Part III – Appointment and duties of poundmasters 2
 - 6. Appointment of poundmasters 2
 - 7. Existing poundmasters and security 2
 - 8. Duty of poundmaster as to custody 2
 - 9. Stock diseases 3
 - 10. Maintenance 3
 - 11. Contagious or infectious disease 3
 - 12. Liability for damage or injury 3
 - 13. Using impounded animals 3
 - 14. Receipts 3
 - 15. Registration of death and injury 3
 - 16. Notice to owners 4
 - 17. Copy of Act to be kept by poundmaster 4
 - 18. Pound-book 4
 - 19. Inspection of pound-book (Schedule) 4
 - 20. Refusal of inspection 4
 - 21. Offences 4
 - 22. Pound-book at sales 4
 - 23. Sending of extracts 4
 - 24. Absence of poundmaster 5
- Part IV – Impoundment of stock 5
 - 25. Power to impound stock found trespassing 5
 - 26. Stock on outspans 5
 - 27. Detention of stock 5
 - 28. Compensation for injury occasioned by stock (Schedule) 5
 - 29. Payment of fees 6
 - 30. Working, etc. of detained stock 6

31. Release of stock liable to impoundment (Schedule)	6
32. Rescue of stock liable to impoundment	6
33. Division of stock	6
34. Trespass on a farm pound	7
Part V – Pound, herding and other fees	7
35. Fees (Schedule)	7
Part VI – Disposal of impounded stock	8
36. Release by poundmaster	8
37. Security after part payment	8
38. Sale of stock	8
39. Auctioneer’s licence not required	9
40. Purchase by poundmaster	9
41. Disposal of unsold stock	9
42. Deductions	9
43. Return of sales	9
44. Refunds	9
Part VII – General	10
45. Reports of discovery of stray stock	10
46. Impoundment of stock straying on public places	10
47. Damages to owners of breeding stock (Schedule)	10
48. Regulations	11
49. Penalties	11
50. Duties of poundmaster under other law	11
51. Amendment of Schedule	11
52. Cesser of application	11
Schedule	11

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Pounds Act, 1966

Act 24 of 1966

Commenced on 28 October 1966

[This is the version of this document at 1 December 1998.]

Part I – Preliminary

1. Short title

This Act may be cited as the Pounds Act, 1966.

2. Interpretation

In this Act, unless inconsistent with the context—

"**appropriate fee**", whether or not used in conjunction with a word descriptive of the fee, means the appropriate fee specified in the Schedule;

"**entire**" means male of stock capable of performing the procreative act;

"**large stock**" means equines, bovines or their hybrids;

"**Minister**" means the Minister for Local Administration;

"**owner of land**" means the owner, lessee or lawful occupier of land, or his duly authorised agent;

"**owner of stock**" means the owner or person having possession of stock, or the agent or caretaker for the owner;

"**pound**" means a pound established, or deemed to be established, under this Act;

"**pound-book**" means the pound-book specified in [section 18](#);

"**poundmaster**" means a person appointed as such under this Act or deemed to have been so appointed, or a person acting with the authority, or on behalf, of such person;

"**small stock**" means goats and sheep;

"**stock**" means large and small stock;

"**the Stock Diseases Regulations**" mean the regulations issued under the Animal Diseases Act, [No. 7 of 1965](#);

"**sufficient fence**", as applied to—

(a) wire fences, means a fence of not fewer than four wires and not less than three feet six inches in height;

(b) other fences, means—

(i) a fence, wall or hedge through which stock cannot pass without breaking the fence, wall or hedge; or

(ii) a natural boundary through, or across, which stock does not ordinarily pass;

"**township**" means a township established by law.

Part II – Pounds

3. Establishment

- (1) Subject to this section, the Minister may establish pounds at such places as he deems fit.
- (2) A pound shall not be established within a distance of eighteen miles from another pound unless, in the opinion of the Minister, special circumstances warrant the establishment of a pound within that distance.
- (3) Where—
 - (a) the Minister receives, from not less than six *bona fide* farmers who own stock and who own or occupy land in the neighbourhood of a township, a written request for the establishment of a pound in that neighbourhood, but outside the area of the township; and
 - (b) there is available a person who is competent and willing to act as poundmaster and who owns or occupies sufficient and suitable land, for that purpose, in the neighbourhood;the Minister may establish a pound in that neighbourhood and appoint that person as poundmaster.
- (4) The establishment of a pound shall be notified in the *Gazette*.

4. Existing pounds

A pound duly established at the commencement of this Act shall be deemed to be established under and subject to the provisions of this Act.

5. Disestablishment

The Minister may disestablish a pound, and notice of such disestablishment shall be given in the *Gazette*.

Part III – Appointment and duties of poundmasters

6. Appointment of poundmasters

- (1) The Minister shall appoint poundmasters who shall hold office during his pleasure.
- (2) A poundmaster shall furnish such security as the Minister may require for the due performance of such duties of a poundmaster as are prescribed by this Act; and the payment, into the Consolidated Fund, of all moneys accountable by him in accordance with this Act.

7. Existing poundmasters and security

- (1) A poundmaster duly appointed at the commencement of this Act shall be deemed to be appointed under and subject to the provisions of this Act.
- (2) Due security already furnished by such a poundmaster at the commencement of this Act, shall be deemed to be security furnished under [section 6\(2\)](#).

8. Duty of poundmaster as to custody

- (1) A poundmaster shall receive into a pound all stock legally tendered to him between the hours of sunrise and sunset.
- (2) A poundmaster who refuses to receive into a pound stock so tendered shall be guilty of an offence.

9. Stock diseases

Where a poundmaster has reasonable grounds for suspecting that an impounded animal is suffering from a disease specified in and for the purpose of the Stock Diseases Regulations, he shall isolate the animal, and forthwith report his suspicion to a Government veterinary officer and await his instructions as to its treatment or disposal.

10. Maintenance

- (1) The poundmaster shall bear all expenses connected with the establishment and maintenance of his pound, and keep his pound in proper order to the satisfaction of the Minister.
- (2) The poundmaster shall provide, and as far as possible maintain free from infection, separate kraals for horses, cattle, entires, sheep and goats.
- (3) Notwithstanding subsection (2), the Minister may authorise a poundmaster to provide a lesser number of kraals.

11. Contagious or infectious disease

- (1) A poundmaster shall provide separate accommodation for animals suffering from contagious or infectious disease.
- (2) Where impounded stock are required to be dipped, dressed, inoculated, treated or sprayed in accordance with such instructions as he may receive from a Government veterinary officer or any other person duly authorised by law on that behalf, the poundmaster, on receipt of these instructions shall carry out the work; and discharge the obligations imposed on the owner by the Stock Diseases Regulations.

12. Liability for damage or injury

- (1) A poundmaster is responsible for the proper care of, and providing for stock impounded.
- (2) A poundmaster shall be held liable to the owner for damage or injury sustained by reason of any default under subsection (1).
- (3) In addition to any civil remedy which the owner may have, a poundmaster who fails to take proper care of, or to provide for, stock impounded shall be guilty of an offence.

13. Using impounded animals

A poundmaster who works or otherwise uses, or permits the working or other use of, an impounded animal shall be guilty of an offence.

14. Receipts

A poundmaster shall give a receipt in the prescribed form to a person tendering stock in accordance with [section 8\(1\)](#), specifying the number and description of animals so tendered, and the trespass or damage for which the animals are alleged to be impounded, and shall retain a copy thereof.

15. Registration of death and injury

In the case of the death or injury of an impounded animal, the poundmaster shall enter in his pound-book a description of the animal, and the cause of its death or injury.

16. Notice to owners

Where the owner of impounded stock is known to the poundmaster, he shall through the post or otherwise send a written notice, addressed to that owner at his place of residence, informing him of the impoundment.

17. Copy of Act to be kept by poundmaster

A poundmaster shall retain a copy of this Act which shall, at all reasonable times, be readily available to the public for reference.

18. Pound-book

- (1) A poundmaster shall keep a pound-book in the prescribed form.
- (2) The entries in the pound-book shall be made in the prescribed manner, immediately upon receipt of stock.

19. Inspection of pound-book (Schedule)

- (1) The poundbook shall be kept at the residence of the poundmaster and shall, at all times, be available for inspection, free of charge by a District Officer of a district, a Government stock inspector, or a police officer.
- (2) The pound-book shall, at all reasonable times, be available for inspection by the public upon payment of the appropriate fee.
- (3) The poundmaster shall, upon payment of the appropriate fee, give any interested person who demands it, an extract signed by the poundmaster, from the pound-book.

20. Refusal of inspection

A poundmaster who refuses to allow his pound-book, or copy of this Act, to be inspected by a person legally entitled to do so on payment of the appropriate fee, if any, shall be guilty of an offence.

21. Offences

A poundmaster who knowingly makes a false entry in his pound-book, or fraudulently destroys or erases an entry already made, or wilfully delivers, to a person, a false copy or extract from a pound-book, shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred emalangeni or, in default of payment thereof to imprisonment for a period not exceeding three months.

22. Pound-book at sales

- (1) The poundmaster shall have his pound-book with him at every sale of animals impounded in his pound.
- (2) The pound-book shall, at the time and place of sale, be available for inspection free of charge to all persons desiring to refer to it.

23. Sending of extracts

- (1) Each week a poundmaster shall forward to the officer in charge of the nearest police station or police post in the district, and such person as the Minister may direct, an extract from the pound-book showing the entries during the preceding seven days.
- (2) A person who contravenes subsection (1) shall be guilty of an offence.

24. Absence of poundmaster

- (1) Unless the poundmaster provides a responsible person to act on his behalf during his absence, he shall not absent himself from his pound.
- (2) A poundmaster who contravenes subsection (1) shall be guilty of an offence.

Part IV – Impoundment of stock**25. Power to impound stock found trespassing**

- (1) Subject to any other law and to this section, an owner of land may impound stock found trespassing on his land, and thereupon shall send it, by the shortest possible road, to the nearest pound.
- (2) Where, under the law relating to diseases of animals or any other law, the movements of any kind of stock are so restricted as to render it illegal to send the stock to the nearest pound, the stock may be sent to the nearest pound which may be reached without contravening that law.
- (3) Where, by reason of the flooding of a river or a water-course, the way to the nearest pound is impassable or dangerous, the stock may be sent to the nearest pound which can be reached by a practicable route.

26. Stock on outspans

Save as may be provided in a law dealing with roads or outspans, stock belonging to a traveller which is on an outspan which is beacons off, or a lawful outspan shall not be deemed to be trespassing.

27. Detention of stock

- (1) Except in areas in which there is in force a special law affecting the movements of a particular species of stock and except in accordance with that law, no person shall detain stock taken for the purpose of impoundment for a period longer than twelve hours, without a sufficient supply of food and water, and in any event for not more than ninety-six hours.
- (2) A person who contravenes subsection (1) shall be guilty of an offence.

28. Compensation for injury occasioned by stock (Schedule)

- (1) Subject to this section, where damage is occasioned by stock to be impounded, the person injured, unless he agrees with the owner of the stock as to the amount of damage so occasioned, shall have the right to have the damage assessed, within twenty-four hours by any police officer or poundmaster who is easily available, or two impartial and independent witnesses, who in respect of their services for assessment, shall be entitled to the appropriate amounts specified in the Schedule.
- (2) Where the owner of such stock is available, he shall have the right to nominate one of the two impartial and independent witnesses.
- (3) Where the two impartial and independent witnesses are not able to agree as to the assessment, they shall call in a third person to determine the issue and his decision shall be final.
- (4) Where one amount of damage, costs and trespass fees set out in this Act is not satisfied, the person injured shall transmit to the poundmaster a written statement of the damage with the impounded stock.
- (5) Where the owner of the stock is not able to nominate one of the two impartial independent witnesses and does not agree with the valuation of the damage and costs so assessed, he may apply to the District Officer, or a duly appointed Justice of the Peace of the district where the trespass

took place to appoint two persons for the purpose of making, not later than seventy-two hours after the trespass, a fresh valuation and of apportioning the costs of that valuation.

- (6) The decision of the persons so appointed shall be final.
- (7) Notwithstanding anything in this Act, an owner of land is entitled to claim in addition to any other amount provided for in this Act, the appropriate trespass fees from the owner of the stock to be impounded.

29. Payment of fees

- (1) Where stock is impounded in accordance with [section 25](#), the poundmaster shall forthwith pay the driving fees referred to in [section 35\(1\)\(c\)](#) to the person lawfully in charge of the impounded stock.
- (2) Any sum due in respect of damages shall be paid either on release of the stock, or from the proceeds of sale of the impounded stock so far as available.

30. Working, etc. of detained stock

A person who works, uses, harasses, ill-treats or overdrives stock found trespassing on his land or being sent to the pound, or permits any other person to do so, shall be guilty of an offence.

31. Release of stock liable to impoundment (Schedule)

- (1) Where the owner of stock liable to impoundment applies to the owner of the land, on which the stock was found trespassing, for release of the stock prior to removal to the pound, and tenders to that owner, as trespass fees an amount equal to one half of the appropriate pound fee (provided the amount so tendered is not, in any case, less than the appropriate minimum trespass fee), and the amount of any damages assessed as provided in [section 28](#) and claimed by the owner of the land, the owner of the land shall, on receipt of those amounts, forthwith release the stock.
- (2) Where the stock is already removed from the land trespassed upon and is on its way to the pound, the owner of the stock may, subject to [section 47](#), apply to the person in charge of the stock on behalf of the sender, for the release of the stock on payment of the amount of the trespass fees as laid down in subsection (1), any damage so assessed and claimed, and full mileage to the nearest pound, at the rate specified in the Schedule, in relation to driving fees; and upon payment thereof the person in charge shall release the stock.
- (3) Where the person in charge of the stock refuses to accept the amount tendered in accordance with subsection (2), or to release the stock after payment in accordance with that subsection, he and the impounder of the stock shall each be guilty of an offence and liable, on conviction, to a fine not exceeding twenty emalangeni in addition to any civil remedy which the owner of the stock may have against the impounder.

32. Rescue of stock liable to impoundment

A person who rescues, or attempts to rescue, or who prevails upon, or assists, any other person to rescue stock lawfully impounded or on the way to a pound or seized and detained for the purpose of impoundment shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred emalangeni or, in default of payment thereof, to imprisonment for a period not exceeding three months.

33. Division of stock

A person who divides stock of the same species found trespassing for the purpose of driving them to a pound shall not be entitled to additional driving fees based on such division.

34. Trespass on a farm pound

- (1) A poundmaster or an occupier of a pound on a farm shall not impound, or cause to be impounded stock trespassing on the farm, in a pound, other than one situated on the farm.
- (2) A poundmaster who impounds stock trespassing on the farm on which his own pound is situated shall not be entitled to charge mileage for the stock so impounded.
- (3) A person who contravenes subsection (1) shall be guilty of an offence.

Part V – Pound, herding and other fees

35. Fees (Schedule)

- (1) Subject to subsection (2), a poundmaster is entitled to collect the following from the owner of impounded stock—
 - (a) the appropriate pound fees;
 - (b) the appropriate herding and tending fees:
Provided that such fees shall not be paid—
 - (i) in the case of donkeys, for more than fourteen days, and,
 - (ii) in the case of other stock, for more than forty-two days,and the fees shall not be paid at all in respect of stock impounded after five o'clock in the afternoon and released before eight o'clock in the forenoon of the following day;
 - (c) driving fees on a basis of mileage as follows—
 - (i) mileage shall be paid at the rate specified in the Schedule;
 - (ii) mileage shall not be paid for the return journey of a person delivering the stock to a pound or in respect of more than one person delivering stock in one lot; and,
 - (iii) where stock, being the property of different persons, is sent in one lot to a pound, each owner shall pay a *pro rata* share of the driving fee;
 - (d) such damages, costs and trespass fees as are payable by the owner of impounded stock in accordance with [section 28](#);
 - (e) where the stock was advertised but released before the date of sale, the costs of the advertisement specified in [section 38\(2\)](#);
 - (f) the costs, at the appropriate rate specified in the Schedule, of any dipping, dressing, inoculating, treating or spraying of stock which, under this Act or any other law, was incurred by the poundmaster during the period of impoundment; and
 - (g) the actual cost, certified by a Government veterinary officer, of any necessary additional feeding of stock incurred by the poundmaster during the period of impoundment.
- (2) For the purpose of a fee chargeable under subsection (1), progeny not more than six months old, or large stock or not more than four months old, of small stock shall, if impounded together, be considered as one head with the mother.

Part VI – Disposal of impounded stock

36. Release by poundmaster

- (1) On the payment of the amounts payable to a poundmaster under [section 35](#), he shall forthwith deliver the impounded stock to its owner, or to a person duly authorised in writing by the owner and obtain a receipt in the prescribed form for it.
- (2) A poundmaster who contravenes subsection (1) shall be guilty of an offence.

37. Security after part payment

Where the owner of impounded stock applies to the poundmaster for the release of the stock but is unable, then and there, to pay the amount necessary for the release, the poundmaster shall retain only such number of the stock as he considers sufficient to secure payment of that amount, and deliver, to the owner or his duly authorised agent, the remainder of the stock.

38. Sale of stock

- (1) Where impounded stock is not, in accordance with the provisions of sections [36](#) and [37](#) released within a period of forty-two days from the date of impoundment, the poundmaster shall, subject to this section, sell the stock by public auction.
- (2) Subject to subsection (7), the poundmaster shall cause notice of the sale to be published at least twenty-one days before the sale is held in the *Gazette*, and a newspaper circulating in the district, and such notice shall contain a sufficient description of the stock to be sold and of the farm and district where the pound, at which the sale is to be held, is situate.
- (3) On sending the notice to the *Gazette*, the poundmaster shall post a copy of the notice in a conspicuous place at or near his pound and such copy shall remain so posted until the day of the sale and, if defaced or otherwise damaged, be replaced by the poundmaster.
- (4) The poundmaster shall, also, send a copy of the notice to the District Officer of the district, the officer in charge of the nearest police station or post, and every other poundmaster within the district.
- (5) A poundmaster who receives such a copy shall post it in a conspicuous place at or near his pound, until the day of the sale.
- (6) Sales of stock held under this Act shall be held at the pound on Wednesdays at one o'clock in the afternoon, or on such other date or such other time as may be prescribed, and shall be for cash.
- (7) In the case of donkeys—
 - (a) it shall not be necessary for the poundmaster to publish the notice of sale in the *Gazette* or in a newspaper but, within two days after the impoundment of the donkeys, he shall post the notice of sale in a conspicuous place at or near his pound until the day of the sale;
 - (b) the poundmaster shall, also, within the period of two days, send a copy of the notice by post to the District Officer of the district, the officer in charge of the nearest police station or police post, and every other poundmaster within the district, and every such person receiving such copy shall post it at or near his office or pound, as the case may be, until the day of the sale.
- (8) Subject to this section, sales of impounded donkeys shall be held not less than twelve days after the notice of sale.
- (9) Before the sale, the poundmaster shall brand all large stock to be sold with a brand approved by the Minister.

39. Auctioneer's licence not required

Notwithstanding anything contained in the law relating to trading licences, a poundmaster shall not be required to take out a licence in respect of sales held under this Act.

40. Purchase by poundmaster

A poundmaster shall not, directly or indirectly, purchase for himself or others at a sale held under this Act.

41. Disposal of unsold stock

- (1) Where the poundmaster does not receive an offer for stock put up for sale by public auction, he shall report the fact to the District Officer of the district and state the estimated value of the stock, and the fees and other expenses incurred in respect of the matter.
- (2) The District Officer shall, thereupon give such orders as he deems advisable in regard to putting up the stock again for sale by public auction, or its disposal or destruction.

42. Deductions

- (1) The poundmaster is entitled to deduct, from the proceeds of a sale held under this Act, the following fees, amounts and costs as applicable—
 - (a) the pound, herding and tending fees in accordance with [section 35](#);
 - (b) the driving fees in accordance with [section 35](#);
 - (c) the amount of assessed damage, costs and trespass fees in accordance with [section 28](#);
 - (d) the costs of advertisement in accordance with [section 38\(2\)](#);
 - (e) the costs, in accordance with [section 35](#), of dipping dressing, inoculating, treating or spraying;
 - (f) the cost, in accordance with [section 35](#), of additional feeding;
 - (g) auctioneer's fees of an amount equal to five per centum of the sale price; and
 - (h) any other amount for which this Act provides.
- (2) At the end of the month in which a sale takes place, the poundmaster shall pay to the District Officer of the district for the Consolidated Fund, the balance of the proceeds of sale less an amount equivalent to thirty-three and one third per centum as payment for his service as poundmaster.

43. Return of sales

- (1) On the first day of each month, the poundmaster shall render to the District Officer of the district a return of all sales under this Act supported by vouchers and certificates from the respective purchasers.
- (2) The District Officer shall pay the balance referred to in [section 42\(2\)](#) into the Consolidated Fund.
- (3) A poundmaster who fails to make such a return, or to pay such balance to the District Officer, shall be guilty of an offence.

44. Refunds

The amount paid into the revenues of Swaziland under [section 43](#), shall be refunded to the former owner of the stock sold upon the owner applying to the District Officer, within twelve months after the sale, and furnishing satisfactory proof of ownership of the stock before sale.

Part VII – General

45. Reports of discovery of stray stock

- (1) Where stray stock is found on land, the owner of the land shall, within fourteen days, report the finding to the officer in charge of the nearest police station or post.
- (2) An owner of land shall not knowingly allow stray stock to remain on his land for a period longer than fourteen days but, in addition to the requirement of subsection (1), he shall, before the end of that period—
 - (a) notify the owner of the stock if known to him; or
 - (b) secure the stock and send it to the pound; or,
 - (c) where there is not, within thirty-five miles, a pound to which the stock may lawfully be sent or where the stock is too wild, or cannot be moved, to be sent to the pound, give to the District Officer of the district written notice accompanied by two sworn statements as to the facts of the case.
- (3) On receipt of such a notice, the District Officer may authorise the sale of the stock, at the farm where it is, by the poundmaster to whose pound it would have been sent and, in such a case—
 - (a) the owner of the land shall be entitled to receive, out of the proceeds of the sale, an amount equivalent to the driving fees in accordance with [section 35](#) and any damage, which would have been payable had the stock been sent to the pound, and
 - (b) the provisions of Part VI shall apply, *mutatis mutandis*.
- (4) An owner of land who allows stray stock to remain on his land in contravention of subsection (2) shall be guilty of an offence.

46. Impoundment of stock straying on public places

A police officer or a person authorised by the local authority concerned may impound stock found straying on a street or open place in an urban area, or on an outspan.

47. Damages to owners of breeding stock (Schedule)

- (1) Subject to this section, the owner of land, amongst whose breeding stock of the same species an entire is found trespassing—
 - (a) is entitled to impound the entire; and,
 - (b) in addition to his right of impoundment and to ordinary fees and assessed damages, notwithstanding anything to the contrary in this Act, entitled to recover, from the owner of the entire, the appropriate amount specified in the Schedule as damages for each such trespass.
- (2) Any remedy under this Act shall not prejudice any right of civil action for damages under the common law by owners of pedigree or grade cattle kept on a farm or part of a farm which is enclosed on all sides with a sufficient fence.
- (3) Owners of cattle not kept on a farm or part of a farm enclosed, on all sides, with a sufficient fence shall only be entitled to damages assessed in accordance with this Act; and the damages for trespass provided under this section are payable to the Government.
- (4) Where pigs or poultry are doing damage in or to gardens, cultivated lands, dams, water-furrows, grain or hay, the owner of the damaged property may kill them on or in those places.

48. Regulations

- (1) The Minister may, by notice published in the *Gazette*, make regulations, not inconsistent with this Act, prescribing—
 - (a) the method of accounting to be adopted by poundmasters;
 - (b) the proper audit of the accounts of poundmasters;
 - (c) the conduct of sales held in accordance with this Act; and
 - (d) the expenses to be paid for the purposes of [section 28](#); and, generally, for the better carrying out of the objects of this Act.

49. Penalties

A person who is guilty of an offence under this Act, for which offence no penalty is specifically provided, shall be liable, on conviction, to a fine not exceeding thirty-five emalangeni or, in default of payment thereof, to imprisonment for a period not exceeding one month.

50. Duties of poundmaster under other law

This Act shall not relieve the poundmaster of any duties imposed on him by the Stock Diseases Regulations or any other law.

51. Amendment of Schedule

This Act may amend the Schedule by notice published in the *Gazette*.

52. Cesser of application

- (1) The Minister may, by notice published in the *Gazette*, declare that this Act no longer applies within the area of a specified town council, whereupon this Act shall cease to apply within such area.
- (2) Section 23 of the Interpretation Act No. 21/1970 shall apply to such cesser as if this Act were, in such area, repealed by another law.

Schedule

Part I (Section 19)

(Amended L.N.67/1980; L.N.67/1995.)

1.	(1)	For inspection of pound-book	E10.00	
	(2)	For extract from pound-book—		
		(a)	for first one hundred words of the extract	E05.00
		(b)	for each subsequent one hundred words or part thereof	E01.00

Part II (Section 28)

2.	Allowances for witnesses (assessors)—			
(1)	(a)	for each half-day	E30.00	
	(b)	for each day	E60.00	
(2)	Travelling expenses of witnesses (assessors) as follows—			
	(a)	car hire, per km	E01.00	
	(b)	motor cycle hire, per km	E00.50	
3.	Trespass fees as follows—			
	(a)	for large stock, per head—		
		(i)	on fenced, cultivated lands	E12.00
		(ii)	on unfenced, cultivated lands	E08.00
		(iii)	on open veld	E05.00
	(b)	for small stock, per head—		
		(i)	on fenced, cultivated lands	E08.00
		(ii)	on unfenced, cultivated lands	E05.00
		(iii)	on open veld	E03.00

Part III (Section 31)

4. For release of stock liable to impoundment—

Minimum trespass fees, per head	E10.00
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Part IV (Section 35)

5.	Pound fees—		
(1)	(a)	for large stock, per head per day	E10.00
	(b)	for small stock, per head per day	E07.00
(2)	Herding and tending fees—		
	(a)	for large stock, per head per day	E02.00
	(b)	for small stock, per head per day	E01.00
(3)	Driving fees—		
	for each km or portion thereof		E01.00
(4)	For dipping, dressing, inoculating, treating or spraying of animals—		
	(a)	dipping or spraying cattle per head	E05.00
	(b)	dipping sheep and goats for scab and mange, per head	E05.00
	(c)	dressing equine animals for mange, per head	E06.00
	(d)	anthrax inoculation, per head	E02.00
	(e)	quarter-evil (blackquarter) inoculation, per head	E02.00