

LIMPOPO PROVINCE POUNDS ACT 3 OF 2002

[ASSENTED TO 20 DECEMBER 2002]

[DATE OF COMMENCEMENT: 1 NOVEMBER 2005]

(English text signed by the Premier)

ACT

To provide for the regulation of pound matters in the Province; the rationalization of pounds legislation assigned to the Province; and to provide for matters connected therewith.

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CHAPTER I INTERPRETATION OF ACT

1 Definitions

In this Act, unless the context otherwise indicates-

"Department" means the Department responsible for the administration of this Act;

"Government" means the Government of the Province;

"Head of Department " means the most senior official in the Department appointed in terms of section 3B of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

"Government pound" means a Government pound referred to in section 2 and includes a pound, which has become a Government pound in terms of this Act;

"landowner" in relation to land, means the owner, lessee, lawful occupier or person who otherwise has general control or supervision over such land;

"Municipal Manager" means any person who has been appointed as a Municipal Manager in terms of the Municipal Structures Act, 1998 (Act 117 of 1998);

"MEC" means the Member of the Executive Council responsible for administering this Act;

"Municipality" means a Municipality established in terms of the provisions of the Municipal Structures Act, 1998 (Act 117 of 1998);

"Municipal pound" means a municipal pound referred to in section 2;

"owner" in relation to stock, means the owner or the person who is in lawful possession of such stock;

"Poundmaster" means a Poundmaster referred to in section 7 and includes the acting and Deputy Poundmaster;

"prescribed" means prescribed by regulations;

"Province" means the Limpopo Province as contemplated in Section 103 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

"public road" means any road, street or thoroughfare or any other place whether a thoroughfare or not which is commonly used by the public or section thereof or to which the public or section thereof has the right of access and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or ford traversed by any such road, street or thoroughfare;
- (c) any other structure or thing forming part of, connected with or belonging to such road, street or thoroughfare;

"Stock" means horses, mules, donkeys, cattle, sheep or goats.

CHAPTER II ESTABLISHMENT, CONTROL AND ABOLITION OF POUNDS

2 Establishment of pounds

The MEC may by notice in the *Gazette*:

- (a) at the request of a Municipality establish for such Municipality, one or more municipal pound;
- (b) in any area in which the MEC deems necessary, with due regard to the needs of the public, establish one or more Government pound;
- (c) at the request of any Municipality, transfer to such Municipality, any Government pound situated in the jurisdictional area of that Municipality.

3 Control and maintenance of Municipal Pounds

If the MEC is satisfied that a municipal pound is not properly controlled or

maintained, the MEC may:

- (a) issue such instructions to the Municipality as the MEC may deem necessary in relation to the control and maintenance of such pound;
- (b) by notice in the *Gazette* convert such pound into a Government pound with effect from a date specified in such notice, which must be at least 90 days after the date of such notice; or
- (c) at the request of the Municipality, convert a municipal pound into a Government pound with effect from a date specified in the notice, which must be at least 90 days after the date of such notice.

4 Abolition of Pounds.

- (1) The MEC may by notice in the *Gazette* abolish any pound which in the opinion of the MEC is:
 - (a) unfavourably situated;
 - (b) redundant; or
 - (c) no longer serving the intended purpose.
- (2) The abolition of pounds under subsection (1) must be subject to any conditions determined by the MEC in consultation with the Member of the Executive Council responsible for financial matters in the Province.

5 Conditions of transfer of pounds

The transfer of any Government pound to a Municipality must be subject to the conditions determined by the MEC, in consultation with the Member of the Executive Council responsible for financial matters in the Province.

6 Erection and maintenance of pounds

- (1) Any pound established or deemed to have been established in terms of this Act, must be erected and maintained:
 - (a) by the Municipality concerned, in the case of a municipal pound, out of moneys appropriated by the Municipality for that purpose; or
 - (b) by the Department in the case of a Government pound, out of moneys appropriated by the Provincial Legislature for that purpose.
- (2) Every pound:

- (a) must be erected and completed to the satisfaction of the MEC, within 90 days of the date of its establishment;
 - (b) must consist of such number of paddocks:
 - (i) as may be necessary to keep stock which are infected with disease separately;
 - (ii) as may be necessary to keep all the female and male stock separately; or
 - (iii) as the MEC may deem it necessary, with due regard to the circumstances in the area concerned or the needs at the pound concerned;
 - (c) must as far as possible be kept free from infection with disease; and
 - (d) must comply with all the prescribed requirements in relation to the erection and maintenance of pounds.
- (3) If the erection of a municipal pound is not completed to the satisfaction of the MEC, the MEC may, after seven days written notice to the Municipality concerned, direct that the Department take over such pound as a Government pound and complete the erection thereof.

7 Appointment of Poundmaster

- (1) The MEC must appoint a Poundmaster for every Government pound.
- (2) A Municipality must appoint a Poundmaster for each municipal pound who must as far as possible be an employee of such Municipality.
- (3) The MEC or Municipality may, appoint one Poundmaster for two or more Government or municipal pounds.
- (4) An acting Poundmaster may be appointed, if the Poundmaster is for any reason absent, unable to perform the Poundmaster's duties or if the post of Poundmaster is vacant for any reason.
- (5) One or more Deputy Poundmasters may be appointed to assist the Poundmaster in the performance of the Poundmaster's duties.
- (6) An acting Poundmaster and a Deputy Poundmaster must exercise all the powers and perform all the duties and functions conferred on or assigned to a Poundmaster by this Act.

8 Duties of Poundmaster

A Poundmaster must:

- (a) receive all stock tendered for impoundment in accordance with the provisions of this Act;
- (b) issue to every person tendering stock for impoundment, an official receipt specifying:
 - (i) the number and species of stock so tendered;
 - (ii) the reason why such stock is tendered, specifying the alleged damage, if any, caused by such stock;
 - (iii) particulars of perceptible injuries to the stock so tendered;
 - (iv) the name and address of:
 - (aa) the landowner on which stock was found trespassing;
 - (bb) the owner, if known, of the stock so tendered; and
 - (cc) the person tendering stock;
- (c) forthwith, in such manner as the Poundmaster may deem expedient, notify the owner of impounded stock, if the owner's name and address is known to the Poundmaster;
- (d) report every suspected case of infection with disease to a stock inspector or to the nearest Police Station and keep disease infected stock in paddocks reserved for such purpose;
- (e) keep at the Pound office, for inspection by the public, a copy of this Act and all the regulations made hereunder, in all the official languages of the Province;
- (f) keep at the Pound office, a register in the prescribed form in which the prescribed particulars must be entered and which must at all reasonable times be open for inspection by any member of the public upon payment of the prescribed fee;
- (g) submit the prescribed returns;
- (h) exercise powers and perform such duties and functions as may be conferred on or assigned to a Poundmaster by this Act; and
- (i) perform such duties and functions as the Municipality, the Head of the

Department, any Stock Inspector, Veterinary Surgeon or any other officer delegated thereto by the Head of the Department, may from time to time assign to the Poundmaster in relation to the keeping, care and treatment of impounded stock.

CHAPTER III IMPOUNDMENT AND RELEASE OF STOCK

9 Power to impound stock

- (1) Subject to the provisions of this Act:
 - (a) any landowner who:
 - (i) finds any stock trespassing on such land;
 - (ii) finds any stock which is not under proper supervision or control on any public road on such land;
 - (iii) finds any stock which may be impounded under any law or on any outspan on such land; or
 - (b) any
 - (i) traffic officer appointed under any law relating to road traffic;
 - (ii) person authorized thereto by the MEC; or
 - (iii) member of the South African Police Service, who on any public road finds stock which is not under proper supervision or control or who at any place, finds any stock whose presence at such place is contrary to any law, may impound such stock or cause such stock to be impounded.
- (2) Stock may be impounded at any time whenever found on a public road without supervision of owner or controller.

10 Procedure of impounding stock by landowner

- (1) Any landowner impounding stock in terms of the provisions of this Act, must, subject to the provisions of subsections (2), (3) and (4), within 48 hours of finding stock, send such stock by the shortest practicable route to the nearest pound.
- (2) If the shortest practicable route to the nearest pound is for any reason dangerous, stock to be impounded may be:
 - (a) sent to the nearest pound by the shortest alternative route;

- (b) sent to another pound in close proximity which can be reached safely; or
 - (c) detained by the landowner concerned, for a period exceeding 48 hours as may be necessary to ensure the safe passage of stock to the nearest pound, provided the landowner informs the South African Police Service of the situation within 48 hours.
- (3) If the removal of any stock to the nearest pound in terms of this Act would be contrary to the provisions of any legislation relating to the control or treatment of animal diseases and parasites, any regulation, order or directive made or issued there under, the landowner on which stock was found trespassing may:
 - (a) send such stock to another pound in close proximity, to which the movement of such stock is not contrary to the provisions of the said legislation or any such regulation, order or directive; or
 - (b) detain the stock until such stock may be removed to the nearest pound or until stock can in any manner be disposed of under the said legislation or any regulation, order or directive.
- (4) If any trespassing stock:
 - (a) is so wild, diseased or injured that its impoundment is risky; or
 - (b) trespassed on land situated more than 30 kilometers by the shortest route from the nearest pound;

the detention must be reported within 48 hours to the nearest Police Station and within seven days to the Head of the Department.
- (5) An impounded donkey may be disposed of in the prescribed manner.

11 Feeding of impounded stock

- (1) The Poundmaster or any person authorized in terms of this Act to impound stock, must feed the impounded stock.
- (2) The cost of feeding impounded stock must be recovered in terms of the provisions of this Act.

12 Particulars regarding impoundment of stock

Any person tendering stock to the Poundmaster for impoundment, must at the same time, furnish to such Poundmaster:

- (a) the name and address of the person tendering stock, the owner of the land on which stock was found trespassing and the owner of the stock, if known;
- (b) the name of the place where the stock was found trespassing;
- (c) an indication of the circumstances in which the stock was found and whether the stock was at the place concerned, contrary to any law; and
- (d) particulars of any damage caused by the stock.

13 Payment of transport fees

Any Poundmaster who impounds stock, must pay the prescribed transport fees to the person tendering the stock.

14 Compensation for damage to crop on land

If the stock trespassing on land causes any damage to any crop on such land:

- (a) the owner of such stock is liable to the landowner for compensation in respect of the damage caused;
- (b) the damage and compensation may be determined by the owner of such stock and the landowner mutually, or if no agreement is reached, the Municipal Manager of the area in which the land is situated shall determine that amount of damages payable;
- (c) the owner of the stock must within reasonable time pay to the landowner, the compensation determined in terms of paragraph (b);
- (d) the stock must not be released until the full amount payable is paid to the Poundmaster;
- (e) where the compensation referred to in subparagraph (c) is determined by a Municipal Manager:
 - (i) the compensation, payment of the prescribed travelling allowance and fees, must be made to such Municipal Manager; and
 - (ii) the landowner must furnish to the Poundmaster, a certificate by the Municipal Manager of the area, setting out the amount of compensation, allowances and fees payable as a result of the damage.

15 Release of impounded Stock

- (1) A Poundmaster must release any impounded stock if:

- (a) requested by the owner or authorized agent of the owner of such stock against payment in full of all moneys, costs and compensation due, in respect of such stock, in terms of this Act; and
 - (b) the person claiming ownership of impounded stock or agent proved ownership of such stock by means of documents and or marks on the said stock to the satisfaction of the Poundmaster.
- (2) If the owner of the impounded stock or the owner's authorized agent requests the Poundmaster to release the stock but fails to pay in full, all moneys, costs and compensation due in terms of this Act, the Poundmaster must retain such number of the impounded stock as may in the Poundmaster's opinion, be sufficient to secure the payment of such money, costs and fees and must release the remainder of such stock.
- (3) The owner of impounded stock must pay to the Poundmaster:
- (a) for the benefit of the Municipality concerned or for the benefit of the Government as the case may be:
 - (i) the prescribed pound fee;
 - (ii) the prescribed tending fee;
 - (iii) the prescribed transport fee;
 - (iv) the amount due for the dipping, dressing, treating and spraying of such impounded stock; and
 - (v) all costs for advertisement incurred by the Poundmaster if such stock is released after advertising a pound auction;
 - (b) for the benefit of the landowner on which stock was found trespassing:
 - (i) the prescribed trespass fee; and
 - (ii) the compensation for the damage caused;
 - (c) for the benefit of the Municipality, the prescribed travelling allowance and fees.

16 Advertisement and sale of stock by public auction

- (1) If impounded stock is not released within 21 days from the date of impoundment, the Poundmaster must with the approval of the Head of Department or Municipal Manager as the case may be, and by notice in the prescribed form, advertise the

intended sale of such stock by public auction.

(2) The Poundmaster must:

- (a) make the advertisement:
 - (i) at least seven days before such public auction;
 - (ii) at the pound concerned or at the nearest auction site;
 - (iii) in the *Gazette* in the official languages used in the Province; and
 - (iv) in a newspaper circulating in the area in which the pound concerned is situated, in at least two official languages.
 - (b) furnish a copy of such notice to the nearest Police Station and to the Poundmaster of every pound within a radius of 30 kilometers from the pound concerned.
 - (c) paste a copy of such notice on the notice board at the pound concerned and at the office of the Head of Department.
- (3) All stock offered for sale at a public auction in terms of this Act, must be sold for cash without reserve to the highest bidder.
- (4) Notwithstanding anything to the contrary in any law contained no licence shall be required in relation to any public auction held in terms of this Act.

17 Powers of Municipalities in relation to stock not capable of impoundment

- (1) If the detention of stock is reported to any Municipal Manager or the Head of the Department, as the case may be, the Municipal Manager or the Head of the Department may order that:
- (a) stock be removed to a pound designated to the Poundmaster by the Municipal Manager or the Head of the Department;
 - (b) such stock be sold by public auction designated by such Municipal Manager or Head of the Department; or
 - (c) such stock be sold by tender in the prescribed manner.
- (2) The prescribed transport fee is payable in respect of the removal of the stock to a pound in terms of an order made under subsection (1).

18 Powers of Municipalities if no offer is made for stock at pound auction

- (1) If no offer is made for stock offered for sale at any public auction, the Poundmaster concerned must submit a written report to the Municipal Manager, specifying the number, species and estimated value of such stock.
- (2) Upon receipt of a report referred to in subsection (1), the Municipal Manager may order that such stock:
 - (a) be sold by public auction at the next pound sale;
 - (b) be sold by tender in the prescribed manner; or
 - (c) be sold out of hand.

19 Deduction of moneys, costs, allowances and compensation from proceeds of pound sale

- (1) If any impounded stock is sold by public auction under the provisions of this Act, the Poundmaster must in respect of such stock, deduct from the proceeds of the auction sale, all moneys, costs, allowances and compensation recoverable in terms of this Act, in the following order:
 - (a) for the benefit of the Municipality concerned or of the Government, as the case may be:
 - (i) the prescribed pound fee;
 - (ii) the prescribed tending fee;
 - (iii) the prescribed transport fee;
 - (iv) the cost of dipping, dressing, inoculation, treatment or spraying, actually incurred in connection with the stock concerned;
 - (v) the cost of advertisement in connection with the auction;
 - (vi) the travelling expenses of the Poundmaster in accordance with the prescribed tariff, if such auction was held at a place other than at the pound;
 - (vii) an amount equivalent to 6 percent of the purchase price, as an auction fee;
 - (b) the prescribed travelling allowance and fees in compensation of the Municipality concerned;
 - (c) in compensation of the landowner on which such stock trespassed:

- (i) the prescribed trespass fee;
 - (ii) compensation for damage caused; and
 - (iii) transport fees.
- (2) From the proceeds of any auction sale, the Poundmaster must deduct an amount equivalent to 50 percent of the prescribed pound fee and tending fee and must pay such amount to the landowner on which the stock was detained.
- (3) The balance arrived at after deduction of all fees, allowances, costs and compensation referred to in subsection (1), from the proceeds of any public auction held in terms of this Act, must accrue to the Municipality or to the Government, as the case may be.

20 Owner of sold stock may claim proceeds of pound auction

The Poundmaster who sold stock by public auction in terms of this Act may:

- (a) if the owner of sold stock applies thereof within 12 months of the auction; and
- (b) upon submission of satisfactory proof of ownership in respect of the stock;

order that compensation equal to the balance referred to in section 19(3), be paid to the owner by the Municipality or by the Government, as the case may be.

21 Prohibition of ill-treatment of impounded or detained stock

No person is allowed in any manner to use or ill-treat stock which is being detained in or outside any pound or is transported to any pound in terms of this Act.

22 Marking of impounded stock

All impounded stock sold by public auction in terms of this Act, must be marked in the prescribed manner, before its removal from the pound.

23 Illegal detention or impoundment of stock

No person is allowed to impound or detain any stock except in terms of this Act.

24 Impoundment of stolen stock

- (1) A Municipal Manager may, in writing order a Poundmaster to detain stock, alleged or proved to have been stolen, in the pound.

- (2) Stock detained in terms of subsection (1) must not be released, unless the Head of Department, in writing orders the release of such stock.
- (3) The prescribed fees and costs, in respect of stock referred to, in subsection (1), must be paid by the person to whom stock is released.
- (4) If the fee and costs referred to in subsection (3) are not paid, the stock must be dealt with as prescribed.

CHAPTER IV GENERAL PROVISIONS

25 Monitoring role of the Department

- (1) The Department must monitor and support the municipalities on pound matters depending on their capacity.
- (2) The MEC may determine the role of traditional leaders on pound matters in the Province.

26 Delegation of powers

- (1) The MEC may delegate in writing to the Head of Department or to Municipal Managers, any power conferred upon the MEC by this Act, except a power relating to the formulation of regulations.
- (2) The Head of the Department may, authorize Municipal Managers, in writing to exercise any power conferred upon the Head of Department by this Act, except powers delegated to the Head of Department by the MEC.

27 Regulations

- (1) The MEC may make regulations in relation to:
 - (a) the requirements in connection with the erection and maintenance of pounds;
 - (b) the form of any register, notice or reception to be kept, given, published or issued under this Act, the particulars to be entered into such register and the fees payable for inspection thereof;
 - (c) the transport fee payable to any person transporting stock to any pound;
 - (d) the tending fee payable to the Poundmaster or person impounding stock;
 - (e) the pound fee payable to a Poundmaster;

- (f) the travelling allowance and fees payable to any person on whose land stock trespassed and the travelling expenses of the Poundmaster where an auction is held at a place other than the pound;
 - (g) the manner in which stock must be sold by public auction;
 - (h) the marking of impounded stock which must be sold by public auction;
 - (i) the manner in which impounded donkeys, not released within seven days, should be disposed of;
 - (j) returns to be submitted by a Poundmaster; and
 - (k) any other matter which in terms of this Act, is required to be prescribed by regulation or which the MEC may deem desirable or expedient to prescribe for the achievement of the objectives of this Act.
- (2) The regulations made in terms of subsection (1) may prescribe a penalty for contravention thereof.

28 Offences and penalties

Any person who:

- (a) contravenes or fails to comply with any provision of this Act;
- (b) resists, hinders, obstructs or assaults any Poundmaster in the exercise of the Poundmaster's powers or duties in terms of this Act; or
- (c) knowingly and with the intent to deceive, furnishes false information or particulars to any Poundmaster in relation to:
 - (i) stock or the name and address of the owner of impounded stock or stock tendered for impoundment; or
 - (ii) land or the name and address of the landowner on which stock was found trespassing;shall be guilty of an offence and is on conviction, liable to a fine or to imprisonment for a period not exceeding six months, or to both the fine and imprisonment.

29 Repeal of laws

The laws specified in the Schedule are hereby repealed.

30 Transitional provision

Anything done in good faith under a provision of a law repealed by this Act, or deemed to have been so done under a repealed law, is deemed to have been done under a corresponding provision of this Act.

31 Short Title and commencement

This Act is called the Limpopo Province Pounds Act, 2002 and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

SCHEDULE LAWS REPEALED

| NO. AND YEAR OF LAW | SHORT TITLE | EXTENT OF REPEAL |
|----------------------------|--|-------------------------|
| Ordinance 13 of 1972 | Pounds Ordinance, 1972 | The whole |
| Ordinance 5 of 1973 | Pounds Amendment Ordinance, 1973 | The whole |
| Act No. 8 of 1976 | Gazankulu Pounds Act, 1976 | The whole |
| Act No. 80 of 1976 | Lebowa Pounds Act, 1990 | The whole |
| Act No. 6 of 1976 | Venda Pounds Act, 1976 | The whole |
| Act No. 5 of 2000 | North Province Local Government laws Rationalization Act, 2000 | Section 2(b) |