

# NORTHERN TERRITORY OF AUSTRALIA

## POUNDS ACT

As in force at 1 July 1996

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 1996

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## POUNDS ACT

### An Act relating to the impounding of cattle

#### 1 Short title

This Act may be cited as the *Pounds Act*.

#### 2 Commencement

This Act shall commence on a date to be fixed by the Government Resident by notice in the *Gazette*.

#### 3 Definitions

In this Act, unless the contrary intention appears:

**cattle** includes any entire horse, mare, gelding, colt, filly or foal, a bull, cow, ox, steer, heifer or calf, and a sheep, camel, ass, mule, goat, pig or buffalo.

**inspector** means a person appointed under section 4(a) as an inspector for the purposes of this Act.

**local area** means a municipality or community government area, within the meaning of the *Local Government Act*.

**local authority** means a municipal council or community government council, within the meaning of the *Local Government Act*.

**owner** includes the agent, overseer, bailiff or manager for the owner and, where used in reference to land, includes the occupier.

**pound** means a place established under section 5(a) as a pound or land in respect of which an arrangement has been made under section 5(b) by the Minister or a local authority.

**poundkeeper** means a person appointed under section 4 as a poundkeeper, and includes a person for the time being authorized to act as the poundkeeper of a pound.

**sheep** includes any ram, ewe, wether or lamb.

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#### **4 Appointment of inspector or poundkeeper**

A local authority in respect of its local area and the Minister in respect of an area other than an area for which a local authority is responsible may appoint a person to be:

- (a) an inspector for the purposes of this Act; or
- (b) a poundkeeper of a pound.

#### **5 Establishment of pounds**

A local authority in respect of its local area and the Minister in respect of an area other than an area for which a local authority is responsible may:

- (a) by notice in the *Gazette*, establish a pound; or
- (b) make such arrangements as the local authority or Minister, as the case may be, thinks fit for the use of land for impounding cattle seized under this Act.

#### **6 Pound to be enclosed and kept in good order**

- (1) Every pound shall be properly enclosed and shall be kept clean and in good repair by the poundkeeper thereof.
- (2) Any cattle for the time being impounded shall be supplied by the poundkeeper with a sufficiency of food and water.

#### **7 Diseased cattle to be kept in separate enclosure**

In cases where in any pound there is a separate enclosure in which cattle infected with disease may be kept, cattle infected with any infectious or contagious disease shall not be kept in the same enclosure with cattle not so infected.

#### **8 Destruction of diseased cattle**

Any cattle impounded in a pound which have been certified in writing by the Chief Inspector of Stock or by any other inspector of stock appointed under the *Stock Diseases Act*, to be affected with any infectious or contagious disease, may be destroyed by the poundkeeper of the pound or by a member of the Police Force.

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**9 Constant supply of water to be maintained**

There shall be maintained in every pound a constant supply of wholesome water by means of troughs or by any other means in such manner as to afford any cattle impounded therein free access to the water at all times.

**10 Taking cattle out of pound for grazing or watering**

A poundkeeper of any pound may take or send any cattle out of the pound at such times and to such places as he thinks fit for the purpose of grazing or watering.

**11 Pound book**

Every poundkeeper shall keep a pound book in accordance with Form A in Schedule 2 and shall make all entries therein without delay.

**12 Board setting out fees to be maintained at pound**

The poundkeeper of every pound shall keep erected in some conspicuous part of the pound a board having thereon a notice setting out the fees payable in accordance with or in pursuance of this Act.

**13 Accounting for money received by poundkeeper**

Every poundkeeper shall, at least once in every month, render an account of and pay all moneys received by him during the preceding month in respect of fees payable in accordance with or in pursuance of this Act, where the poundkeeper is appointed by:

- (a) the Minister, to the Territory; or
- (b) a local authority, to the local authority and such money shall form part of the revenue of that local authority.

**14 Powers of impounding cattle**

- (1) Any cattle found trespassing upon any land may be impounded in the nearest accessible pound by the owner of the land, a member of the Police Force or inspector.
- (2) A member of the Police Force or inspector may impound any cattle found wandering, straying or lying upon any public road.

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**14A Transport to pound**

- (1) Where cattle are to be impounded in pursuance of section 14, they may be driven, led or conveyed by a vehicle suitable for the purpose to the pound where they are to be impounded.
- (2) Where cattle are driven, led or conveyed under subsection (1) to a pound, the reasonable costs of driving, leading or conveying the cattle is recoverable from the owner of the cattle as a debt due and payable by him to the poundkeeper.
- (3) The occupier of any enclosed land may seize and impound:
  - (a) any cattle found wandering, straying or lying upon any public road immediately adjacent to or fronting the enclosed land of the occupier; or
  - (b) any cattle found feeding off the enclosed land.
- (4) Any person may seize and impound in the nearest pound any cattle straying or at large or unlawfully tethered or depastured in any street or public place in any town or township.

**15 Impounding unlawfully or in an unauthorized place**

Any person who impounds any cattle unlawfully or in any place not authorized by this Act shall be guilty of an offence.

Penalty: \$500.

**16 Fees to be paid to the poundkeeper**

- (1) Every poundkeeper shall demand and receive, as poundage fees for cattle impounded under this Act, the fees payable under the regulations.
- (2) The fees referred to in this section shall be chargeable for each day, or part of a day, during which the cattle remained impounded.

**18 Person impounding not liable to fees**

The person impounding any cattle in a pound shall not be liable, by reason only of the impounding, to pay to the poundkeeper any fees or charges in respect of the cattle impounded.

**19 Payment of fees on seizure for impounding**

If any cattle have been lawfully seized by a poundkeeper, a member of the Police Force or inspector for the purpose of being impounded, the owner of the cattle or some person authorized by

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him may pay or tender to the poundkeeper, a member of the Police Force or inspector who has seized the cattle such amount as would be payable in accordance with or in pursuance of this Act as poundage fees for one day in respect of the cattle seized and reasonable costs incurred under section 14A, and thereupon the poundkeeper, a member of the Police Force or inspector, as the case may be, shall deliver up the cattle seized to the owner or person paying or tendering the amount due.

**20 Notice to be given by person impounding cattle**

Any person impounding any cattle in a pound shall give notice to the poundkeeper thereof, specifying:

- (a) the number and kinds of the cattle impounded;
- (b) the name of the owner, if known, or of the supposed owner, or a statement that the owner is not known; and
- (c) the place where the cattle were found trespassing.

**21 Duty and responsibility of poundkeeper**

- (1) The poundkeeper of every pound shall receive into his custody any cattle impounded in the pound, and shall detain them in his custody, whether in the pound or elsewhere, until they are released, sold or otherwise disposed of according to this Act.
- (2) The poundkeeper shall be responsible to the owner of any cattle impounded for loss or damage sustained by the poundkeeper's wilful act or neglect, or the wilful act or neglect of any of his agents or servants, but not otherwise, until the cattle impounded are released, sold or otherwise disposed of according to this Act.

**22 Posting of notice of cattle impounded**

The poundkeeper of every pound, whenever and as soon as any cattle are impounded therein, shall post a written notice on a board on some conspicuous part of the pound, setting forth a description of the cattle impounded.

**23 Notice of impounding to be given to owner**

When any cattle are impounded in a pound, the poundkeeper shall, if the owner of the cattle impounded is known, immediately give notice of impounding to the owner by telephone or by any other convenient means of communication.

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**24 If cattle not claimed notice to be published in newspaper**

If any cattle impounded in any pound are not claimed by the owner or by some person on his behalf within 24 hours after being impounded, the poundkeeper shall, as soon as possible after the expiration of the 24 hours referred to, cause a notice of the impounding in accordance with Form B in Schedule 2 to be published in a newspaper circulating in the area:

Provided that, where the Minister, by notice in a newspaper circulating in the area, specifies, with respect to any pound, that notices of the impounding of cattle in that pound which are made in accordance with Form B contained in Schedule 2 shall, in lieu of being published in a newspaper circulating in the area, be posted at the pound and at the nearest accessible police station, the notice of impounding referred to in this section shall be posted on a board in some conspicuous part of the pound and also in a conspicuous place at the nearest accessible police station to the pound.

**25 Cattle to be released on payment of fees, &c.**

The poundkeeper of every pound, upon payment of the poundage fees in respect of any cattle impounded and reasonable costs incurred under section 14A, shall release those cattle and deliver them to the owner thereof or to any other person duly authorized by the owner to receive them:

Provided that a poundkeeper shall not be required to release or deliver any cattle except between the hours of sunrise and sunset.

**26 Power of sale of cattle by poundkeeper**

If the release of any cattle under section 25 is not obtained before the time fixed for the sale of those cattle in the notice of impounding published in a newspaper circulating in the area or posted in accordance with section 24, the poundkeeper may sell the cattle in the manner provided for in this Act.

**27 Time of sale of impounded cattle**

Every sale of any impounded cattle shall take place not less than 4 clear days after the notice of impounding referred to in section 24 has been published in a newspaper circulating in the area, or not less than 7 clear days after the notice of impounding has been posted in accordance with that section, as the case may be.



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**28 Mode of sale of impounded cattle**

Every sale of any impounded cattle shall:

- (a) take place at the pound where the cattle were impounded;
- (b) be by auction to the highest bidder; and
- (c) commence at such time as is fixed by the poundkeeper in the notice published in a newspaper circulating in the area or posted in accordance with section 24.

**29 Poundkeeper to act as auctioneer**

Every sale of any impounded cattle shall be conducted by the poundkeeper acting as auctioneer:

Provided that, for the purpose of this section, a poundkeeper shall not be required to have an auctioneer's licence or to be licensed as an auctioneer under any law in force in the Territory.

**30 Number of cattle to be put up for auction in one lot**

At any sale of impounded cattle any number of sheep, goats or pigs may be put up for auction in one lot, but not more than one animal of any other description shall be put up for auction in any one lot:

Provided that nothing in this section shall prevent a cow with her calf or a mare with her foal from being put up for auction and sold in one lot.

**31 Persons forbidden to purchase impounded cattle**

- (1) Neither the person who impounded the cattle nor the poundkeeper shall, either personally or by any other person, purchase any cattle impounded in that pound.
- (2) Any person contravening subsection (1) shall be liable, for every purchase, to a penalty not exceeding \$500 and shall also restore the cattle purchased to the person who, if the sale had not taken place, would be entitled to receive them.

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**32 Powers of poundkeeper where no bid made at sale**

Where any impounded cattle have been offered for sale at any pound in accordance with this Act and no bid for the cattle has been made at that sale, the poundkeeper may:

- (a) fix another time for the sale of the cattle by a further notice in a newspaper circulating in the area in accordance with Form B in Schedule 2;
- (b) fix another time for the sale of the cattle by posting a notice of sale on a board on some conspicuous part of the pound;
- (c) cause the cattle to be destroyed; or
- (d) where he is appointed by the Minister, take over the cattle as the property of the Territory or, where he is appointed by the local authority, take over the cattle as the property of the local authority.

**33 Disposal of proceeds of sale after deducting poundage fees**

Where impounded cattle have been sold under this Act, the proceeds of the sale shall be applied by the poundkeeper to pay (in the order in which they appear):

- (a) costs of the sale;
- (b) poundage fees in respect of the cattle impounded; and
- (c) reasonable costs incurred under section 14A,

and the remainder, if any:

- (d) where the owner of the cattle is known, to that owner;
- (e) where the owner of the cattle is not known, one calendar month has expired after the date of the sale and the poundkeeper was appointed by the Minister, to the Territory; or
- (f) where the owner of the cattle is not known, one calendar month has expired after the date of the sale and the poundkeeper was appointed by the local authority, to the local authority.

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**34 Pound rescues or breaches**

- (1) Any person who:
  - (a) unlawfully rescues or releases any cattle lawfully impounded or seized for the purposes of being impounded;
  - (b) damages any pound, whether any cattle are impounded therein or not; or
  - (c) commits any pound-breach whereby any cattle may escape from any pound,

shall be liable to a penalty not exceeding \$500, and to pay such reasonable charges and expenses as the Court thinks fit. The whole or any portion of the penalty may be awarded to the owner of the cattle.

- (2) In any proceedings in respect of any offence against this section, proof that any cattle so rescued, released or escaping are, within 48 hours of the time of the rescue, release or escape, found in the possession or on the lands or with any of the herds of the owner of the cattle, shall be prima facie evidence that the rescue, release or pound-breach was made or committed by the owner.

**35 Owners of straying cattle liable to penalty**

If any cattle are found straying, or at large, or tethered, or depastured, in any street or public place within any town or township, the owner shall be liable to a penalty not exceeding \$500.

**36 Compensation for trespass on enclosed land**

- (1) The owner of any land which is surrounded by a fence, or of any land a portion of which is surrounded by a fence, may, if the fenced land or the fenced portion of the land is trespassed on by cattle, drive off the cattle or give notice to the owner of the cattle requiring him to remove them and, may thereupon demand compensation from the owner of the cattle and, in case of non-payment, may recover in a summary way before the Local Court such compensation as the Court deems reasonable (not exceeding \$1,000) in respect of any damage occasioned by the cattle whilst on the land trespassed on or whilst entering upon the land trespassed on.
- (2) Nothing contained in this section or in this Act shall deprive the owner of any land trespassed on by cattle of any other legal remedies available, under the law in force in the Territory, on account of the trespass of cattle.

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**36A      Certain fines paid to local authority**

Where an offence against this Act or the Regulations is committed in an area for which a local authority has responsibility, a fine or monetary penalty recovered in relation to the offence shall be paid to the local authority.

**36B      Offences and penalties**

- (1) A person shall not contravene or fail to comply with a provision of, or an order under, this Act or the Regulations.
- (2) A person who contravenes or fails to comply with a provision of, or an order under, this Act or the Regulations for which a penalty is not provided by a provision of this Act or the Regulations other than this section, is punishable on being found guilty by a fine of \$500 or imprisonment for 3 months.

**37        Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and, in particular, prescribing matters for or in relation to the poundage fees payable for impounding cattle in a pound.

**Schedule 1 Acts of the State of South Australia and Ordinances of the Northern Territory**

*The Impounding Act of 1858* of the State of South Australia (No. 8 of 1858)

*The Impounding Act Amendment Act, 1895* of the State of South Australia (No. 625 of 1895)

*Darwin Pound Ordinance 1917* of the Northern Territory (No. 10 of 1917)

*Darwin Pound Ordinance 1918* of the Northern Territory (No. 4 of 1918)

*Darwin Pound Ordinance 1924* of the Northern Territory (No. 18 of 1924)

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**Schedule 2**

section 11

Form A

FORM OF POUND BOOK

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Impounded

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Date and time	Description of cattle, colour and brands	By whom impounded	For what cause	Owner or supposed owner	Time and mode of giving notice
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Released or Sold

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Date and time	Whether released or sold	Amount Received for Sales	Received Fees	Signature of person receiving cattle and paying fees
		\$	\$	

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section 24, 32

Form B

FORM OF NOTICE TO BE PUBLISHED

Impounded at [here state the place, and describe the cattle, the number and kind, and where and how branded].\*

If not claimed, will be sold on

Poundkeeper

\*Where there is no brand, the cattle are to be shortly described, stating age, colour or any particular mark.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

**2****LIST OF LEGISLATION*****Pounds Ordinance 1930 (Act No. 14, 1930)***

Assent date           16 October 1930  
 Commenced           1 December 1930 ((Cth) Gaz 30 October 1930)

***Administrator's Council Ordinance 1959 (Act No. 22, 1959)***

Assent date           7 July 1959  
 Commenced           28 April 1960 (Gaz No. 18, 27 April 1960)

***Pounds Ordinance 1963 (Act No. 6, 1963)***

Assent date           23 January 1963  
 Commenced           28 August 1963 (Gaz No. 35, 28 August 1963)

***Pounds Ordinance 1965 (Act No. 52, 1965)***

Assent date           17 December 1965  
 Commenced           14 February 1966 (s 2)

***Pounds Ordinance 1966 (Act No. 7, 1966)***

Assent date           23 March 1966  
 Commenced           23 March 1966

***Pounds Ordinance 1967 (Act No. 42, 1967)***

Assent date           4 December 1967  
 Commenced           6 December 1967 (Gaz No. 60, 6 December 1967)

***Ordinances Revision Ordinance 1973 (Act No. 87, 1973)***

Assent date           11 December 1973  
 Commenced           11 December 1973 (s 12(2))

**Amending Legislation*****Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date           26 August 1974  
 Commenced           11 December 1973 (s 3(2))



**Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)**

Assent date 24 October 1974  
Commenced 11 December 1973 (s 3)

**Ordinances Revision Ordinance 1976 (Act No. 27, 1976)**

Assent date 28 June 1976  
Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));  
ss 3 and 4: 11 December 1973; s 5: 24 October 1974

**Transfer of Powers (Further Provisions) Ordinance 1977 (Act No. 51, 1977)**

Assent date 9 December 1977  
Commenced 1 January 1978 (s 2)

**Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)**

Assent date 1 July 1978  
Commenced 1 July 1978

**Statute Law Revision Act 1978 (Act No. 95, 1978)**

Assent date 5 September 1978  
Commenced 5 September 1978

**Pounds Amendment Act 1983 (Act No. 6, 1983)**

Assent date 27 April 1983  
Commenced 1 September 1983 (*Gaz* G34, 26 August 1983, p 7)

**Local Court (Consequential Amendments) Act 1989 (Act No. 14, 1989)**

Assent date 5 June 1989  
Commenced s 6: 5 June 1989; rem: 1 January 1991 (s 2, s 2 *Small Claims Amendment Act 1988* (Act No. 43, 1988), *Gaz* G17, 3 May 1989, p 2, s 2 *Local Court Act 1989* (Act No. 31, 1989) and *Gaz* G49, 12 December 1990, p 2)

**Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)**

Assent date 31 December 1993  
Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

**Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)**

Assent date 19 April 1996  
Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

**3 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to: ss 3, 4, 5, 11, 15, 24, 27, 28, 31, 32, 33, 34, 35 and 36.

**4 LIST OF AMENDMENTS**

It amd No. 6, 1983, s 12  
ss 1 – 2 amd No. 6, 1983, s 12  
s 3 sub No. 6, 1983, s 4  
amd No. 84, 1993, s 6

## ENDNOTES

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s 4	sub No. 6, 1983, s 4
s 5	amd No. 51, 1977, s 3; No. 54, 1978, s 3 sub No. 6, 1983, s 4
s 8	amd No. 6, 1983, s 12
ss 11 – 12	amd No. 6, 1983, s 12
s 13	amd No. 6, 1983, s 5
s 14	amd No. 6, 1983, s 12
s 14A	ins No. 6, 1983, s 6
s 15	amd No. 52, 1965, s 3; No. 6, 1983, s 12
s 16	amd No. 42, 1967, s 3; No. 6, 1983, s 12
s 17	amd No. 22, 1959, s 6 rep No. 42, 1967, s 4
s 19	amd No. 6, 1983, s 12
s 21	amd No. 6, 1983, s 12
s 24	amd No. 22, 1959, s 6; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 6, 1983, s 12
s 25	amd No. 6, 1983, s 7
ss 26 – 29	amd No. 6, 1983, s 12
s 31	amd No. 52, 1965, s 4; No. 6, 1983, s 12
s 32	amd No. 6, 1983, s 8
s 33	sub No. 6, 1983, s 9
s 34	amd No. 52, 1965, s 5; No. 6, 1983, s 12
s 35	amd No. 52, 1965, s 6; No. 6, 1983, s 12
s 36	amd No. 6, 1963, s 4; No. 52, 1965, s 7; No. 6, 1983, s 12; No. 14, 1989, s 7
s 36A	ins No. 6, 1983, s 10
s 36B	ins No. 6, 1983, s 10 amd No. 17, 1996, s 6
s 37	ins No. 42, 1967, s 5 amd No. 95, 1978, s 14; No. 6, 1983, s 12
sch hdg	om No. 87, 1973, s 12
sch 1	amd No. 6, 1983, s 12
sch 2	amd No. 52, 1965, s 8; No. 6, 1983, ss 11 and 12
third sch	sub No. 6, 1963, s 3; No. 52, 1965, s 9 amd No. 7, 1966, s 2 rep No. 42, 1967, s 6