



ANALYSIS

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1976, No. 24

An Act to make provisions for animals to be kept secured and tethered to prevent damage to land and crops and for the appointment of Animal Inspectors

(1 December 1976)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short Title and Commencement - (1) This Act may be cited as the Wandering Animals Act 1976.
(2) This Act shall come into force on the 1st day of January 1977.

2. Interpretation - In this Act, unless the context otherwise requires -

"Animal" includes any horse, mare, gelding, colt, filly, or foal; any bull, cow, ox, steer, heifer, or calf; any ram, ewe, wether, or lamb; and any ass, mule, goat, boar, sow, or other pig;

"Animal Inspector" means any of the persons specified in section 8 of this Act, and includes any member of the police force;

"Land" includes crops and plantations;

"Minister" means the Minister in Charge of Agriculture;

"Owner" in relation to animal means the owner or person having charge of any animal; and in relation to land, the owner or occupier of any land and includes the owner of any plantation or crops on any land;

"Secretary" means the person for the time being acting as the Secretary of Economic Services and Natural Resources.

3. Animals to be secured at all times - No person shall keep or attempt to keep any animal on any land unless:

- (a) the land is properly and securely fenced; or
- (b) the animal is securely tethered at all times; or
- (c) the Minister in consultation with the Island Council is satisfied that the manner of restricting the movement of animals on that island is satisfactory for the purposes of preventing damage to crops and land under plantation.

4. Restriction on tethering of animals - No person shall tether or attempt to tether any animal -

- (a) upon any land without the authority of the owner; or
- (b) upon the plantation or crops of any other person; or
- (c) in a citrus plot or to a citrus tree in a citrus plot; or
- (d) in or upon any public place or in such a manner or position that such animal may reach or be upon any public place; or
- (e) in such a position that it may reach nearer than 10 feet from any public road; or
- (f) in such a manner that it is likely to trespass on any land or cause damage to any trees or shrubs or plants or crops growing on that land.

5. Pigs to be kept in enclosures only - (1) Notwithstanding anything in sections 3 and 4 of this Act, no person shall keep or attempt to keep any pig unless such pig is kept within a secure enclosure at all times.

(2) Every such enclosure shall comply with all lawful restrictions relating to enclosures for the time being in force.

(3) For the purposes of this section, the term "pig" includes any boar, sow, or other pig.

(4) Nothing in subsections (1) or (2) of this section shall apply to any island where the Minister in consultation with the Island Council is satisfied that the traditional form of pig husbandry on that island is satisfactory for the purposes of preventing damage to crops and land under plantation.

6. Animals not to be permitted to wander or trespass - (1) No person or owner of any animal shall permit any animal

to wander or trespass on any land at any time.

(2) It shall not be a defence to any offence under this Act that the animal wandered or trespassed without the knowledge of the owner of such animal.

(3) The owner of any wandering or trespassing animal shall be liable for all damage caused to any tree or shrub or plant or crop or land damaged by such wandering or trespassing animal.

7. Trespassing animals may be shot or destroyed -

(1) The owner of any land may shoot or destroy any animal trespassing on his land.

(2) Where for any reason a landowner is unable to exercise the power conferred upon him by subsection (1) of this section, he may authorise an Animal Inspector to shoot or destroy the animal trespassing on his land.

(3) Where an animal has been shot or destroyed, pursuant to this section, the owner of such animal shall not be absolved from any liability for any damage caused on that land.

8. Animal Inspectors - The following persons shall be Animal Inspectors for the purposes of this Act:

- (a) members of the Police Force;
- (b) any person or group of persons or recognised Community organisations appointed by the Minister upon the recommendation of the Secretary.
- (c) members of the Agriculture Department.

9. Powers of Animal Inspectors - For the purposes of enforcing the provisions of this Act, each Animal Inspector shall have the following powers:

- (a) He may with warrant if he has reasonable cause to believe that animals are not being kept in accordance with the requirements of this Act, enter upon any land to ensure that no breach of any of the requirements of this Act has been committed;
- (b) Where a breach of any of the provisions of this Act has been committed by the owner of any animal, the Animal Inspector shall have the power to institute proceedings against the owner for the breach of any of the provisions of this Act and/or destroy any offending animal;
- (c) He may inquire into any complaint under this Act made by any person against any owner and may take whatever action he considers necessary to ensure that the provisions of this Act are complied with.

10. Obstruction of Animal Inspectors - Any person who -

- (a) wilfully obstructs any Animal Inspector in the exercise of any of his powers under this Act; or
- (b) fails to comply with any lawful direction made or requirement imposed or to answer any lawful enquiry made by any Animal Inspector under this Act,

shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$500.00 or to imprisonment for a term not exceeding three months or to both.

11. No liability of Animal Inspectors - No Animal Inspector shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

12. Offences and penalties - (1) Every person who contravenes the provisions of this Act commits an offence against this Act.

(2) Every person who commits an offence against this Act for which no penalty is provided other than in this section, shall be liable on conviction to a fine not exceeding \$500.00 or to imprisonment for a term not exceeding three months or to both.

13. Regulations - (1) The High Commissioner may from time to time, by Order in Executive Council, make all such regulations as may be deemed necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the date of the making thereof if the Legislative Assembly is then in session and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

14. Repeals - The following enactments are hereby repealed:

Wandering Stock Ordinance 1951, No. 4
Wandering Stock Amendment Ordinance 1952, No. 1
Wandering Stock Amendment Ordinance 1959, No. 2
Wandering Stock Amendment Ordinance 1961, No. 4.

This Act is administered by the Department of Agriculture.