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Impounding

1967

Impounding Ordinance 1967, No.44

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IMPOUNDING ORDINANCE 1967  
1967, No.44

An Ordinance to make better provision for the control of public pounds and the procedure relating to the impounding of animals (1 March 1967).

PART I - PRELIMINARY

1. Short Title and Commencement - (1) This Ordinance may be cited as the Niue Island Impounding Ordinance 1967.

(2) This Ordinance shall come into force on the first day of March 1967.

2. Arrangement of Ordinance - This Ordinance is arranged as follows:

- Part I - Preliminary. (Sections 1 to 4.)
- Part II - Public Pounds and Poundkeepers. (Sections 5 and 6.)
- Part III - Impounding. (Sections 7 and 8.)

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- Part IV - Duties of Poundkeeper. (Sections 9 to 11.)
- Part V - Disposal of Animal. (Sections 12 to 15.)
- Part VI - Miscellaneous Provisions. (Sections 16 to 18.)

[This section has been revised. References to introductory notes have now been included in the Analysis.]

3. Interpretation - (1) In this Ordinance, unless the context otherwise requires -

"Animal" means any horse, pig, goat, cow, ass, mule, or sheep, of whatever sex or age;

"Chief Officer of Police" means the officer in charge of the Police in Niue;

"Executive Committee" means the Executive Committee of Niue established by section 9 of the Niue Act 1966;

"Owner" in relation to any animal includes the person having the charge of the animal or the management thereof for the time being;

"Public notice" in relation to any act, matter, or thing required to be publicly notified, means the making of the act, matter or thing generally known in Niue by any practicable or customary means, whether in addition to publication in the Niue Gazette or not;

"Resident Commissioner" means the Resident Commissioner of Niue;

"Treasurer" means the Treasurer of Niue";

"Wandering" in relation to any animal means being under no proper guidance or control.

(2) Subject to the provisions of subsection (1) of this section, expressions defined in the Niue Act 1966 have the meanings so defined.

4. Chief Officer of Police to administer Ordinance - The Chief Officer of Police shall be charged with the administration of this Ordinance under the general direction and control of the Resident Commissioner.

PART II - PUBLIC POUNDS AND POUNDKEEPERS

5. Appointment of Public Pounds and poundkeepers - (1) The Executive Committee may from time to time by public notice -  
(a) Appoint any place or places to be public pounds;  
(b) Appoint for every public pound a poundkeeper.

(2) As long as no notice pursuant to subsection (1) of this section is issued, such part of the prison at Fonuakula as on the coming into force of this Ordinance serves as a public pound under the Niue Livestock Ordinance 1956 shall be deemed to be a public pound for the purposes of this Ordinance and the person in charge of such part of the prison shall be deemed to be the poundkeeper appointed for that public pound under this section.

(3) Every public pound shall be properly fenced and provided with adequate means of shelter for impounded animals and all other facilities necessary for enabling the poundkeeper to comply with the requirements of this Ordinance.

6. Impounding Register - (1) For every public pound there shall be an impounding register in book form or such other form and containing such columns for entries as the Executive Committee may from time to time approve.

(2) The impounding register shall at all reasonable times be open to inspection by any person free of charge.

#### PART III - IMPOUNDING

7. Trespassing or wandering animals may be seized - (1) Every person who finds any animal trespassing or wandering -  
 (a) on the land in respect of which he is entitled to possession, occupation, or any kind or control; or  
 (b) on any public place -

may, if the animal cannot conveniently be restored to its owner, seize and take the animal or cause it to be seized and taken to the nearest pound for impounding.

(2) Any officer of police who finds any such animal on any public place or whose assistance is requested by any person entitled to have any animal impounded under subsection (1) of this section shall, if the animal cannot conveniently be restored to its owner, seize and take the animal or cause it to be seized and taken to the nearest pound for impounding.

8. Delivering animals to poundkeeper - Every person shall upon delivering any animal to the poundkeeper for impounding state -

- (a) His name and address;
- (b) The name and address of the owner (if known);
- (c) The time and place where the animal was found -

and shall sign a statement to that effect in the impounding register or in any other form approved by the Executive Committee.

#### PART IV - DUTIES OF POUNDKEEPER

9. Keeping of pound and animals therein - (1) The poundkeeper shall cause the public pound to be kept clean and in good order and every impounded animal to be supplied with adequate food and drink and given all necessary care and attention.

(2) The pound keeper shall cause any animal known or suspected to be infected with any contagious disease to be kept in a separate enclosure from other animals.

10. Receiving and detaining animals - The poundkeeper shall receive every animal delivered for impounding and detain it until it is restored to the owner or otherwise disposed of as provided in this Ordinance.

11. Keeping of records - (1) The poundkeeper shall keep the impounding register and enter therein in respect of each impounded animal all entries required under section 6 of this Ordinance from the time when the animal is impounded until the final disposal of the animal and accounting therefor.

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(2) Upon receiving any animal for impounding the  
poundkeeper shall cause the statement required by section 8  
of this Ordinance to be made and signed.

#### PART V - DISPOSAL OF ANIMAL

12. Public Notice - As soon as may be after any animal has  
been impounded the poundkeeper shall give public notice of  
the impounding setting out a description of the animal and  
the time and locality when and where it had been found, and  
stating that the animal, if not claimed by its owner within  
seven days of the notice, will be sold by public auction.

13. Restoring animal to owner - (1) If the owner claims  
the animal at any time before the expiration of the seven  
days specified in the public notice the animal shall be  
delivered to him on reasonable proof of his ownership and  
payment to the Chief Officer of Police of the costs of main-  
taining the animal during impounding according to a scale  
of charges from time to time approved by the Executive  
Committee.

(2) The poundkeeper shall not be personally liable to  
the owner of any impounded animal if, in the exercise of his  
duties under this Ordinance and after due inquiry, he  
restores that animal to any other person whom he bona fide  
believes to be the just and rightful owner of the animal.

14. Public Auction - (1) If the animal is not claimed  
within seven days of the public notice the poundkeeper shall  
appoint a time and place for selling the animal by public  
auction and shall give public notice thereof.

(2) The public auction shall be held at the appointed  
time and place and the poundkeeper shall act as auctioneer  
at any such auction but in respect thereof shall not be  
required to obtain a licence pursuant to the "Regulations  
under the Cook Islands Act 1915 to Provide for the Issue of  
a Trading Licence", 1915.

(3) At any public auction under this Ordinance, no  
person who has seized or taken the animal or caused it to be  
seized or taken to the pound shall either personally or by  
any other person bid for or purchase that animal.

(4) The poundkeeper shall not either personally or by  
any other person bid for or purchase any animal put up for  
sale by auction.

15. Proceeds of auction and of other disposal of animal -  
(1) If any animal is sold at an auction under this Ordinance  
the poundkeeper shall apply the proceeds of the sale in pay-  
ment firstly of all costs and charges of the auction,  
secondly, or the costs of maintaining the animal during  
impounding.

(2) If any animal has been offered for sale by auction  
under this Ordinance but has not been sold, the poundkeeper  
may cause that animal to be destroyed.

(3) If any impounded animal dies or is destroyed pursuant to the provisions of this section the poundkeeper may dispose of the carcass as he thinks best and the proceeds (if any) of sale of the carcass shall be deemed to be the proceeds of the sale by auction of the animal and shall be dealt with accordingly.

(4) The proceeds of any sale under this section and any other moneys received by the poundkeeper under this Part of this Ordinance shall be paid into the appropriate account of the Niue public revenues and the poundkeeper shall account therefor in such manner and after such deduction (if any) of costs and charges as the Treasurer may from time to time direct.

#### PART VI - MISCELLANEOUS PROVISIONS

16. Offences - (1) Every person commits an offence against this Ordinance who -

- (a) Knowingly makes a substantially false statement in connection with any information which he is required to furnish under this Ordinance; or
- (b) Wilfully obstructs, hinders, or resists any person in the execution of any power or authority conferred on that person by the provisions of this Ordinance; or
- (c) Rescues or attempts to rescue or interferes with any animal impounded or seized for the purpose of being impounded; or
- (d) Offends against or fails to comply with any condition, duty, or obligation imposed on him by the provisions of this Ordinance and not specifically dealt with in the foregoing subsections of this section; or
- (e) Does or omits, or causes or knowingly permits or suffers to be done or omitted, any act, matter or thing contrary to the provisions of this Ordinance (other than the acts, matters, or things specifically dealt with in the foregoing subsections of this section).

(2) Every person who commits an offence against this Ordinance, except where the Niue Act 1966 provides a more severe penalty for the same offence, shall be liable on conviction to a fine not exceeding ten pounds (£10).

17. Repeals and Savings - (1) The Niue Island Livestock Ordinance 1956 (Ordinance No.50) is hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that all matters, things and proceedings which have been commenced under the repealed Ordinance and which are pending or in progress on the coming into force of this Ordinance, may be continued and completed under this Ordinance.

18. Application of fines - All fines paid or collected pursuant to the provisions of this Ordinance shall form part of the public revenues of Niue and shall be paid into the appropriate account thereof.