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GENERAL NOTICE

NOTICE 549 OF 2008

NORTH WEST ANIMAL POUNDS BILL 2008

To regulate for the establishment, erection and control of pounds in the Province; to regulate the impounding, care and disposal of impounded animals in the Province; and to provide for matters incidental thereto.

BE IT ENACTED by the North West Provincial Legislature as follows:-

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Definitions

1. In this Act, unless inconsistent with the context:-

"animal" means any equine or bovine animal and animals shall have a corresponding meaning;

"Department" means the North West Provincial Department of Agriculture, Conservation and Environment/ Developmental Local Government and Housing;

"MEC" means a Member of the Executive Council responsible for Agriculture, Conservation and Environment in the Province/ Developmental Local Government and Housing;

"municipality" means a municipality established in terms of section 156 of the Constitution of the Republic of South Africa Act, Act No. 108 of 1996;

"owner" includes a person who is known or whose identity, with exercise of reasonable diligence, can be ascertained and, in relation to:-

- (a) an animal, includes the owner or agent or other person having lawful custody or possession of such animal; or
- (b) land, includes the owner, lessee or lawful occupier of such land, or his or her agent;

"pound" means a pound established in terms of section 3 (three) of this Act;

"pound master" means a person appointed in terms of section 4 (four) of this Act;

"prescribed" means prescribed in terms of this Act and regulations made in terms of section 22 of this Act;

"veterinarian" means an animal health practitioner who possesses the necessary qualifications accredited or recognized by the South African Qualifications Authority;

Application of the Act

2. This Act applies to all pounds established anywhere in the province whether in terms of this legislation or any other Act which is in force immediately prior to the promulgation of this Act or otherwise repealed in terms of any provision of this Act.

Establishment of pounds

3. (1) A local municipality situated within the boundaries of the North West Province may establish in its area of jurisdiction a pound to be operated in terms of the provisions of this Act.

(2) A person other than a municipality may establish a pound at his or her or its own cost; provided that he or she or it has been granted authority to do so by the relevant local municipality in the prescribed manner.

(3) A pound established anywhere in the Province in terms of any law, whether applicable or repealed, prior to the enactment of this Act is deemed to be established in terms of this Act and shall be administered in terms of the provisions of this Act.

(4) Where a person has applied for authorization from a local municipality to establish and operate a pound, the municipality shall consider the application and make known its decision to any such applicant; provided that where the

municipality has refused and or failed to grant such authority any such applicant may appeal to the MEC for intervention.

(5) Where no pound is established in a local municipal area, the MEC may establish a State pound, which shall operate in terms of the provisions of this Act; provided that such pound shall cease to exist a municipal or privately owned pound has been established in terms of the provisions of sub-section (1) and (2) hereof.

(6) The MEC shall publish in a Provincial Gazette a list of all pounds established in terms of the provisions of this Act.

Appointment of pound master

4. (1) A local municipality or any person establishing a pound shall appoint a pound master who shall hold office and operate the pound subject to the provisions of this Act.

(2) A pound master currently operating a pound in accordance with any law, whether applicable or repealed, shall operate such pound established in terms of any such law in terms of the provision of this Act.

(3) An appointment in terms of subsection (1) hereof shall be made for a period not exceeding five years at a time; provided that a person may be appointed to serve more than one term as pound master.

(4) A person is disqualified to be appointed a pound master if he or she:-

- (a) is under 18 years of age;
- (b) is an un-rehabilitated insolvent;

- (c) has been declared by a competent authority to be mentally incapable in terms of the Mental Health Care Act, Act No. 17 of 2002 or any other related legislation;
- (d) has been convicted of a criminal offence and sentenced to imprisonment without an option of a fine; and
- (e) has been removed from an office of trust on account of misconduct.

Impounding of animals

5. (1) An owner of land upon which an animal is found trespassing may seize such animal for purposes of impounding it; provided that before any such animal may be removed to a pound, and where possible notice must be given by such person to the owner in the prescribed manner.

(2) An animal that is found straying or unattended on a public road may be seized by:-

- (a) a member of the South African Police Services;
- (b) a member of the North West Road Traffic inspectorate;
- (c) a member of a municipal traffic inspectorate;
- (d) a pound master appointed in accordance with the provisions hereof; or
- (e) the owner of land through or along which such public road passes.

(3) A person may not keep an animal seized for purposes of impounding, for a period longer than six hours, without supplying it with feed and water.

Animals too vicious, intractable or wild to be driven to the pound

6. Where an animal found trespassing on land or to be straying unattended on a public road or public place is certified by a State Veterinarian or a person contemplated in section 5(2)(a)-(c) to be too dangerous, vicious, intractable or wild it may be destroyed or disposed in a humane way; provided that, where

possible, a notice in the prescribed manner shall be given to the owner of such animal before destruction or disposal takes effect.

Release of animals before removal to pound

7. A person whose animal has been seized for purposes of impoundment may request the person who impounded such animal to release it prior to its removal to the pound, in which event the person who seized the animal:-

(a) may release it, if the animal was seized as contemplated in section 5(1);

(b) may release it, if the animal was seized as contemplated in section 5(2); or

(c) may approach a Court with jurisdiction in respect of any claim for damages which he or she may have suffered.

Care of trespassing or impounded animals

8. A person may not work, use or ill-treat an animal found trespassing on his or her land before he or she may remove it to a pound.

Pound into which an animal may be taken

9. A person who seizes an animal for purposes of impounding must remove such animal into the nearest accessible pound, using the shortest possible route and within the shortest possible time; provided that animals may be separated according to their species and gender.

Information to be supplied to pound master of animals sent to pound

10. A person who removes a seized animal to a pound must advise the pound master in writing of:-

(a) the number and description of animals;

- (b) the land from which the animal was seized; and
- (c) the name and particulars of the owner of land from which the animal was seized.

Acceptance of animals to a pound

11. (1) A pound master must accept a seized animal for impoundment regardless of its condition or origin.

(2) A pound master may accept animals seized by the SAPS at the same tariff of fees approved by the MEC; provided that such animals may be kept for such period as the SAPS may require and may only be released to the SAPS upon payment of pound fees.

Pound register

12. (1) A pound master must keep and maintain a pound register into which all animals kept in the pound shall be registered, which register shall be available for inspection at all reasonable times.

(2) A pound master who:-

- (a) neglects or refuses to comply with the provisions of subsection (1) hereof; or
- (b) knowingly and intentionally makes a false entry or omits to make an entry in the pound register; or
- (c) wrongfully and intentionally destroys or erases any previous entry from the pound register; or
- (d) willfully delivers a wrong copy or extract from the pound register to any person,

commits an offence and may be liable on conviction to imprisonment for a period not exceeding 12 months, or to a fine, or to both imprisonment and a fine.

(3) A pound master shall keep all records and registers in respect of a pound for a period of not less than five years.

Notice to owner of impounded animals

13. (1) A pound master must give notice, in the prescribed manner, to the owner of impounded animals of the impoundment if:-

- (a) he or she knows the name and address of owner of such animals; or
- (b) the name and address of the owner of impounded animals can be ascertained with the exercise of reasonable diligence.

(2) Where the owner of impounded animals cannot be reasonably ascertained, the pound master must issue a notice in writing inviting the owner and or the public to identify the animals within a period of 10 days, failing which such animals may be sold by the pound master on auction.

Care of impounded animals

14. (1) A pound master must ensure proper care and feeding of Impounded animals and shall be liable to the owner of an impounded animal for any loss or damage or injury sustained by the owner by reason of negligence or default by *the pound master or his or her employees.*

(2) A pound master under whose care an animal has been kept may not work, use or ill-treat such animal; provided that the pound master may milk any such animal to avoid damaging its udder; provided further that the poundmaster may not sell such milk or supply it to other persons.

(3) A pound master who:-

- (a) neglects impounded animals; or
- (b) exposes impounded animals to danger; or
- (c) works or uses impounded animals or permits another person to work or use impounded animals,

commits an offence and may be liable on conviction to imprisonment not exceeding 12 months or to a fine, or to both imprisonment and a fine.

(4) A pound master must keep male and female animals separately while impounded.

(5) Animals which are infected with any disease contemplated in the Animal Decease Act, 1984 (Act 35 of 1984), or if the pound master has reasonable suspicion that an impounded animal is infected with any such disease, shall be isolated and report the disease to the nearest State veterinarian.

(6) A State Veterinarian or a person contemplated in section 5(2)(a)-(c) may, if satisfied that an impounded animal is dangerously vicious or permanently disabled or too ill or gravely injured, order that such animal be destroyed or disposed of: provided that prior notice of such destruction or disposal should be given to the owner of the animal in the prescribed manner.

Death or injury of impounded animal

15. A pound master must, whenever an animal in his care dies or is injured, register the description of such animal, the nature and cause of death or injury thereof in the pound register, and give notice of death or injury of the animal to the owner thereof.

Release of impounded animals

16. (1) A pound master must release an impounded animal:-

- (a) when an owner provides him with proof of ownership; and
- (b) upon receipt from the owner of the prescribed fees the pound master is entitled to in terms of this Act.

(2) A pound master shall, when releasing an impounded animal, provide the owner with a receipt bearing the particulars of the pound, fees paid and the owner of the animal.

(3) An impounded animal may not be released before the pound fees, which may include assessed damages (if any), have been paid, unless a Court with jurisdiction orders that the animal be released from the pound.

(4) A pound master may retain an animal if the owner is unable to pay him or her prescribed fees or costs occasioned by the impounding for purposes of recovering such fees or costs that are due and payable.

Sale of impounded animals

17. (1) Impounded animals may be sold by the pound master by public auction only when:-

(a) she or he is satisfied that notice has been given to the owner, in the prescribed manner, of the impending sale, which notice shall contain the following information:-

- (i) description of the animals;
- (ii) amount of fees payable.

(b) a period of 14 calendar days has elapsed since the issuing of a notice referred to in sub-section (1)(a).

(2) Animals that are unmarked and the owner of which cannot be identified may be sold by way of public auction; provided that a notice has been issued inviting members of the public to identify them.

(3) A pound master may not purchase, whether directly or indirectly, any animal on sale in terms of the provisions of this Act.

Fees payable to the pound master

19. A pound master shall be entitled to:-

(a) charge the owner of impounded animals fees prescribed in terms of this Act;

(b) recover any costs for dipping, medical treatment, inoculation, or any other treatment made in terms of the provisions of this Act or any other applicable law.

Assessment of damages

20. (1) A person who owns a land upon which an animal has trespassed, and who has suffered damages as a result thereof, may claim damages by approaching a Court with jurisdiction.

(2) An expert may be used to assess the damage caused by the animal(s) so impounded: provided that the fees for the services of such expert assessor may be recovered from the owner of the animals.

Regulations

21. The MEC may make regulations not inconsistent with this Act, prescribing:-

- (a) the establishment, registration and operation of private pounds;
- (b) fees payable to the pound master in respect of the impounding of animals, which fees may be varied from time to time;
- (c) the manner for conducting sale of animals held under the provisions of this Act;
- (d) forms and notices to be given in terms of the provisions hereof; and
- (e) any other matter which the MEC may deem necessary.

Repeal of laws

22. All laws that are currently applicable in the Province regulating pounds are hereby repealed.

Short title and commencement

23. This Act is called the North West Animal Pounds Act, 2008 and shall come into operation on publication in the *Provincial Gazette*.

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