

Bill No. 119 of 1953

A BILL TO PROVIDE FOR THE CONTROL OF STRAY  
ANIMALS IN IMPROVEMENT DISTRICTS

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NOTE

This Bill enacts a new Act to be known as "*The Improvement Districts Stray Animals Act*". It repeals and replaces "*The Domestic Animals (Unorganized Territory) Act*", being chapter 92 of the Revised Statutes of Alberta, 1942.

The new Act applies only to improvement districts and is considerably shorter than the Act it replaces. It is divided into six Parts and contains two Schedules.

Part I deals with entire and mischievous animals. Such animals are prohibited from running at large, and the owner of such animal running at large is penalized. Such animal may be impounded by anyone, and may be disposed of pursuant to regulations.

Part II deals with the establishment and administration of pound districts, the duties of poundkeepers, and the impoundment of stray animals. It provides for the sale of impounded animals and the consequences thereof. Provisions dealing with appeals from impoundment are found in this Part.

Part III deals with stray animals in areas where there is no pound. In this Part a "lawful fence" is defined and where an animal breaks through a lawful fence to enter premises the animal may be removed by its owner upon notification from the owner of the premises and upon payment to the owner of the premises, or the animal may be sold by a brand inspector after certain preliminary steps have been taken by the owner of the premises upon which the animal is found.

Part IV sets out provisions relating to the protection of animals from dogs.

Part V sets out the offences created by this Act and the penalties therefor.

Part VI deals with some miscellaneous matters, such as the making of necessary regulations by the Lieutenant Governor in Council to carry out the intent of this Act. Schedule 1 sets out the forms required by the Act and Schedule 2 is a schedule of fees.

This Bill comes into force on the first day of July, 1953.

J. W. RYAN,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 119 of 1953

## An Act to Provide for the Control of Stray Animals in Improvement Districts

(Assented to \_\_\_\_\_, 1953)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Improvement Districts Stray Animals Act*". Short title

2. In this Act, unless the context otherwise requires,
- |  |   |
|--|---|
| (a) "animal" means any horse, mule, ass, cattle, sheep, pig, goat, goose, turkey;  | Interpretation<br>"animal"                      |
| (b) "animal running at large" or "running at large" means an animal which is off the premises of its owner and is not under the immediate continuous and effective control of some person; | "animal running at large" or "running at large" |
| (c) "day" means a period of twenty-four hours commencing at the time of impoundment;   | "day"   |
| (d) "Department" means the Department of Agriculture;  | "Department"                                    |
| (e) "estrays" means an animal found on the premises of a person other than its owner;  | "estrays"                                       |
| (f) "improvement district" means a part of the Province not included in a municipality or county;  | "improvement district"                          |
| (g) "justice" means a justice as defined in <i>The Summary Convictions Act</i> ;   | "justice"                                       |
| (h) "Minister" means the Minister of Agriculture;  | "Minister"                                      |
| (i) "occupier" means the resident owner of land or a tenant of land;   | "occupier"                                      |
| (j) "owner" means a person owning an animal or the representative of such person;  | "owner"   |
| (k) "poundkeeper" includes a person appointed in writing by the poundkeeper to act for him in his absence;   | "poundkeeper"                                   |
| (l) "entire animal" means,   | "entire animal"                                 |
| (i) a stallion over the age of one year, or  |   |
| (ii) a bull over the age of nine months, or  |   |
| (iii) a ram, he-goat or boar over the age of five months;  |   |

- "mischievous animal" (m) "mischievous animal" means
- (i) a cross, dangerous, notoriously breachy or notoriously mischievous animal, and
  - (ii) any sheep or hog.

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## PART I

### ENTIRE AND MISCHIEVOUS ANIMALS AT LARGE

- 3.** (1) The running at large of entire or mischievous animals in an improvement district is prohibited.
- Offence** (2) If an entire or mischievous animal is running at large in an improvement district the owner of the animal is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.
- Impoundment** (3) An entire or mischievous animal found running at large in a pound district within an improvement district may be impounded by any person and thereupon shall be deemed as an estray and dealt with accordingly under this Act.
- Regulations** **4.** (1) The Minister may make regulations directing the disposal of any or every stallion unlawfully running at large in an improvement district.
- (2) In giving or carrying out such directions neither the Minister nor any person to whom any such direction is given shall be liable for any injury or damages caused thereby.

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## PART II

### POUND DISTRICTS

- 5.** (1) Application for the formation of a pound district in an improvement district shall be made to the Minister in Form A in Schedule 1 and shall be accompanied by a declaration in Form B in Schedule 1.
- Application for formation of pound district**
- Notice of application** (2) At least thirty days prior to the date of the order of the Lieutenant Governor in Council constituting a pound district, a notice of the application setting out the particulars contained in the application shall be
- (a) published in *The Alberta Gazette*, and
  - (b) posted in two conspicuous places within the proposed pound district.
- Objection to pound district** (3) The pound district shall not be constituted if within the thirty days after the notice is posted, objection is made by a majority of the occupiers of land within the proposed pound district in Form C in Schedule 1 accompanied by a declaration in Form B in Schedule 1.
- (4) If no objection is made within thirty days from the posting of the notice the proposed pound district may be constituted as provided by this Act.

**6.** (1) The Lieutenant Governor in Council by order may direct that a part of an improvement district not less than the area of a township shall be a pound district. Order forming pound district

(2) The order shall set out

- (a) the classes of animals which are prohibited from running at large in the district, and
- (b) the periods during which the prohibition is effective, and
- (c) the date upon which the pound district shall be established.

(3) The order shall be published in *The Alberta Gazette*.

(4) A pound district so established is subject to the provisions of this Act.

**7.** The Lieutenant Governor in Council by order published in *The Alberta Gazette* may Boundaries of pound districts

- (a) vary or alter the boundaries of any pound district established under this Act or abolish or discontinue the same, or
- (b) change the period fixed in any previous order for the prohibiting of animals running at large, or
- (c) add animals to or remove animals from the list of prohibited animals set out in an order.

#### **Appointment and Duties of Poundkeepers**

**8.** (1) The Minister may appoint one or more poundkeepers for a pound district, who shall hold office during the pleasure of the Minister. Appointment of poundkeepers

(2) Notice of each appointment and of each cancellation of appointment shall be published in *The Alberta Gazette*, giving the name and address of the poundkeeper and the location of the pound. Notice of appointment

**9.** When the appointment of a poundkeeper terminates, the termination shall operate as a discontinuance of the pound district until another poundkeeper is appointed. Termination of appointment

**10.** (1) Every poundkeeper shall keep a pound book in the form prescribed by the Minister. Pound book

(2) All entries therein shall be made promptly. Entries in pound book

(3) No alteration of any entry shall be made after a dispute as to the subject matter of such entry has arisen.

(4) The pound book and a copy of this Act shall at all reasonable times be open to the inspector Pound book open for inspection

- (a) of any justice, police magistrate, member of the Royal Canadian Mounted Police or a representative of the Minister, free of charge, and
- (b) of any other person upon payment of the sum of twenty-five cents.

- Disposition of pound book (5) Upon his removal from office or upon the acceptance of his resignation, a poundkeeper shall deliver the pound book and all supplies to the person who is appointed by the Minister to receive them.
- Information for Minister **11.** Each poundkeeper shall furnish such information as the Minister may require from time to time.
- Duties of pound-keeper **12.** (1) A poundkeeper at his own expense  
 (a) shall maintain a clean pound in good repair, and  
 (b) shall supply the impounded animals with sufficient and wholesome sustenance, and  
 (c) shall provide such shelter as is commonly provided in the vicinity for animals of similar age and class, and  
 (d) may graze or water impounded animals outside the confines of the pound.
- Pound fence (2) The fence surrounding a corral or an enclosure used as a pound shall consist of  
 (a) rails, boards, slabs, woven or smooth wire, or  
 (b) barbed wire consisting of at least three strands of wire on posts not more than sixteen and one-half feet apart,  
 which shall be substantially built and kept in a good state of repair so as to prevent any animal impounded therein from escaping from the corral or enclosure while used as a pound.
- Barbed wire enclosure (3) No barbed wire corral or enclosure shall be used as a pound unless it contains an area of at least twenty acres.

#### Impounding Animals

- Impounding of estrays **13.** (1) Any person may  
 (a) capture an animal running at large in a pound district or an estray which he finds upon his premises within such pound district, regardless of whether or not the land in question is fenced, and  
 (b) drive, lead, take or convey such animal to the nearest accessible pound within the pound district to be impounded.
- Impounding by pound-keeper (2) A poundkeeper himself shall not capture and impound any animal except an animal found upon his own premises.
- Impounding animals of pound-keeper (3) If an animal running at large or an estray belongs to a poundkeeper, an impounder may cause the animal to be impounded  
 (a) in the pound of the poundkeeper; or  
 (b) in the nearest accessible pound other than that of the said poundkeeper, whether or not the pound is situate within the same pound district in which the animal is captured.

(4) A claim for damages arising under subsection (3) shall be dealt with as if the animal did not belong to a poundkeeper.

**14.** (1) At any time before the animal is actually delivered to the poundkeeper the owner of a captured animal shall be entitled to require the animal to be delivered up to him forthwith upon payment of the amount claimed by way of damages to the person in possession of the animal. Rights of owner of impounded animal

(2) If the owner and the impounder fail to agree as to the amount payable, the animal shall be delivered forthwith to the poundkeeper, there to be dealt with in the ordinary way under this Act.

**15.** (1) The person impounding an animal shall provide the poundkeeper at the time of the impoundment with Duties of person impounding

- (a) a description of the animal,
- (b) the name of the owner of the animal, if known,
- (c) the description of the location where the animal was found,
- (d) the amount of damages claimed, if any.

(2) The poundkeeper shall impound the animal and shall be responsible for the feeding and safekeeping thereof so long as he is legally bound to hold the animal. Pound-keeper's responsibility

(3) Before releasing the animal to the owner, the poundkeeper shall be entitled to receive Impoundment fees

- (a) all lawful fees and charges as provided for in Schedule 2 for the keep of the animal, and
- (b) the money claimed for damages caused by the animal.

**16.** (1) A poundkeeper shall receive and shall detain any animal lodged in his pound until Length of impoundment

- (a) the damages for which it is impounded and all lawful fees and charges are paid, or
- (b) until the order of a justice as hereinafter provided is received and complied with.

(2) A poundkeeper may deliver an impounded animal to a person whom he may reasonably believe to be the owner thereof on receiving a bond in a sum fixed by the poundkeeper and executed by two good and sufficient sureties for the payment of all damages, fees and charges payable under the provisions of this Act. Bond

(3) Where an owner has one or more animals impounded at the same time he shall pay the pound fees and charges and the damage claims in respect of all the impounded animals before he may have any animal released from the pound.

**17.** (1) If the owner of an impounded animal is known to the poundkeeper, the poundkeeper shall cause a notice Notice of impoundment

in Form D in Schedule 1 to be delivered forthwith to the owner at his place of residence.

Mailing of notice (2) If the residence of the owner is situated more than ten miles from the pound or is for any reason not readily accessible, the notice may be sent by mail.

Advertisement of impounding **18.** (1) If the owner of the animal is not known to the poundkeeper the poundkeeper shall,

(a) place an advertisement in one issue of the local newspaper, if there be one, which advertisement shall contain a correct description of the animal and shall give the place and time of sale of the animal if not redeemed; and

(b) post notices of the impoundment in Form E in Schedule 1 in a conspicuous place at the pound and at two other places in the district, one of which must be in the town, village or hamlet nearest the pound.

Branded animal (2) If the impounded animals bear a brand, the poundkeeper shall complete a copy in Form F in Schedule 1 and forward it immediately to the Recorder of Brands, Department of Agriculture, at Edmonton.

(3) If the brand is registered, the Recorder of Brands shall notify the owner forthwith of the impoundment by registered mail.

### Sale of Impounded Animals

Sale of impounded animals **19.** (1) The sale of impounded animals shall take place at an hour of day between the hours of nine o'clock in the forenoon and three o'clock in the afternoon as may be determined by the poundkeeper.

Time of sale (2) The time of the sale of impounded animals shall be specified in all notices of sale.

Sale where owner known **20.** (1) If the known owner of an impounded animal does not redeem it

(a) within three days after the delivering of the notice of impoundment in Form D in Schedule 1, or

(b) within ten days after the mailing of the notice of impoundment in Form D in Schedule 1,

the poundkeeper shall post notices of sale in Form G in Schedule 1 at three conspicuous places within the pound district, one of which places shall be at the pound.

Notice of sale (2) The poundkeeper shall send a copy of the notice of sale by registered mail to the owner of the impounded animal on the day the notices are posted.

Sale by public auction (3) After the notices of sale have been posted for six days, the poundkeeper shall sell the impounded animal by public auction in accordance with the provisions of this Act.

- 21.** (1) Where Sale of animal
- (a) the owner of an impounded animal is not known and the poundkeeper has taken the necessary steps prescribed by this Act to locate the owner, or
- (b) the name of the owner is subsequently made known but the impounded animal is not redeemed in accordance with the notices of impoundment,
- the poundkeeper shall sell the animal by public auction at the time and place mentioned in the advertisement and in the notice of impoundment as posted.
- (2) No such animal shall be sold at a date earlier than Time limit for sale fourteen days from the time of posting the notices of impoundment.
- 22.** (1) The poundkeeper shall be the auctioneer at all sales of impounded animals. Pound-keeper is auctioneer
- (2) A poundkeeper making a sale under the provisions of this Act shall not be liable to prosecution or to any penalty for selling without a licence as an auctioneer. Pound-keeper requires no licence
- 23.** (1) The poundkeeper shall sell only such animals as are necessary to realize sufficient moneys to satisfy the claims for damages, together with the fees and charges according to Schedule 2, and the owner thereupon shall be entitled to have the remaining unsold animals released to him by the poundkeeper. Release of unsold animals
- (2) If the owner is unknown, the poundkeeper shall sell all the animals impounded.
- 24.** (1) The poundkeeper may place a reserve bid on an animal not exceeding the total amount of the fees and charges lawfully due under this Act, exclusive of any damage claim. Reserve bid
- (2) Where the proceeds from the sale of an impounded animal are less than ten dollars, an amount equal to the difference between the proceeds and ten dollars shall be paid by the Department to the poundkeeper. Proceeds less than ten dollars
- 25.** (1) If no bidder presents himself at the sale within one hour from the time set for its commencement, or if no bids are received, the poundkeeper becomes the owner of the animal. Pound-keeper may become owner
- (2) Where a poundkeeper becomes the owner of an animal under subsection (1) he shall be paid ten dollars in respect of that animal by the Department.
- (3) The provisions of sections 26 and 27, the necessary changes being made, apply to the poundkeeper in such a case as if he were the purchaser of the animal.
- 26.** When the poundkeeper sells an impounded horse or head of cattle, he shall brand it on the left shoulder immediately after the sale with the round top A registered brand provided by the Department. Branding of animal sold



Retention of animal by purchaser **27.** (1) An animal other than a horse shall be retained by the purchaser for a period of thirty days.

(2) The owner of any animal other than a horse may recover the animal from the purchaser within thirty days from the date of the sale by furnishing proof of ownership and by reimbursing the purchaser by the amount paid by the purchaser, together with a bonus of ten per cent of the purchase price.

Vesting of ownership (3) A sale by a poundkeeper made in accordance with the provisions of this Act shall vest the ownership

(a) in the case of a horse, immediately in the purchaser, or

(b) in the case of an animal other than a horse, in the purchaser upon the expiration of thirty days from the date of sale, unless the former owner of the animal redeems the animal prior to that date.

Right of action (4) No right of action shall lie by the former owner of the animal if the animal dies or is injured within the period of thirty days from the date of the sale of the animal by the poundkeeper.

Application of proceeds **28.** (1) The proceeds from the sale of an impounded animal sold under the provisions of this Act shall be applied

(a) firstly, in payment of all lawful fees and charges,

(b) secondly, in payment of the damage claim, if any.

(2) The balance of the proceeds of the sale, if any, shall be paid

(a) to the owner of the animal if known, or

(b) to the Minister, if the owner of the animal is not known.

Moneys redeemable by owner (3) Upon application being made to the Minister by the owner of the animal within two years from the date of the sale and upon production of satisfactory evidence of title to the animal, any moneys forwarded to the Minister from the sale of the animal shall be paid to the owner of the animal.

(4) If within two years of the date of the sale no claim is made upon the moneys sent to the Minister, the moneys shall thereupon form part of the General Revenue Fund, and no claim shall thereafter be recognized.

Statement of sale of impounded animal **29.** Immediately after the sale of an animal, the poundkeeper in all cases shall forward to the Department a return in Form H in Schedule 1.

### Appeals

Information and complaint of owner **30.** (1) Before an impounded animal is sold, the owner thereof may give notice in writing to the poundkeeper of his intention to lodge an information and complaint with a justice against the person impounding the animal.

Grounds for complaint (2) The information and complaint may be made on any or all of the following grounds

- (a) that the impounding was illegal,
- (b) that the claim for damages is illegal,
- (c) that the claim for damages is excessive.

(3) The owner shall lodge his complaint with a justice within ten days after giving notice to the poundkeeper. Lodging of complaint

(4) Upon payment to the justice of his fees by the owner as set forth in the tariff of costs provided for summary conviction proceedings under Part XV of the Criminal Code, the justice shall forthwith institute the like proceedings as are authorized under the said Part XV for justices making an order for the payment of money. Application of Part XV of the Criminal Code

(5) Where an owner lodges a complaint with a justice within the prescribed time, the justice shall dismiss the complaint if the complaint is not proceeded with promptly. Dismissal of complaint

(6) The poundkeeper shall proceed under this Act as if no complaint in writing has been given to him,

- (a) when the justice dismisses the complaint, or
- (b) when an owner does not lodge his complaint within the prescribed time.

**31.** If the justice adjudges that the animal is illegally impounded as claimed, the justice Illegal impoundment

- (a) shall order the animal to be restored to the owner, or
- (b) if the animal has been released, shall order the money deposited with the poundkeeper to be paid to the owner,

and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees and charges to which the poundkeeper is lawfully entitled, which may be recovered by distress in the event of non-payment.

**32.** If the justice adjudges that the impounding is legal but that the impounder is not legally entitled to damages under this Act, Entitlement to damages

- (a) if money has been deposited by the owner with the poundkeeper, the justice shall order
  - (i) that the proper fees and charges for the impoundment be paid out of the sum deposited with the poundkeeper by the owner, and that the balance of the deposit be paid to the owner, and
  - (ii) that the costs of the proceedings before the justice be paid by the impounder,
- (b) if no money has been deposited by the owner, the justice shall order
  - (i) the payment forthwith by the owner of the amount properly payable for fees and charges of impoundment and that in default of payment the impounded animal shall be sold and the proceeds applied as provided under this Act, and

- (ii) that the costs of the proceedings before the justice be paid by the impounder which costs may be recovered by distress in the event of non-payment.

Excessive  
damages  
claimed

**33.** If the justice adjudges that the impounding was legal and that the impounder is entitled to recover damages, but that the amount claimed by him for damages is excessive,

- (a) if money has been deposited with the poundkeeper by the owner, the justice shall order that the balance be returned to the owner,
- (b) if no deposit has been made, the justice shall order the damages as awarded to be paid forthwith by the owner together with the proper fees and charges of impoundment which damages, fees and charges may be recovered by distress in the event of non-payment, and
- (c) in both cases the justice shall order the impounder to pay the costs of the proceedings which costs may be recovered by distress in the event of non-payment.

Finding of  
due im-  
poundment  
and damage  
claim

**34.** (1) If the justice adjudges that the impounding was legal and that the impounder's claim for damages is legal and not excessive,

- (a) if money has been deposited with the poundkeeper by the owner, the justice shall order
- (i) the sum deposited to be paid to the persons entitled thereto, and
- (ii) the owner to pay the costs of the proceedings before the justice,
- (b) if no deposit has been made by the owner, the justice shall order the owner to pay the amount of the damage claim, the fees and charges of impoundment, together with the costs of the proceedings before the justice, and in default of payment thereof, the impounded animals shall be sold and the proceeds applied as provided under this Act.

Recovery by  
distress

(2) If the impounded animal has been released, or the proceeds of sale are insufficient to satisfy the amount ordered to be paid pursuant to subsection (1), then the amount so ordered to be paid or the deficiency may be recovered by distress.

Maximum  
damage  
award

**35.** The amount ordered by the justice to be paid for damages in proceedings under this Act shall not exceed the amount of one hundred dollars for each impoundment, regardless of the number of animals impounded.

Appeal

**36.** (1) Within thirty days of the making of an order by a justice, an appeal therefrom may be made to a judge of the district court of the judicial district within which the impoundment was made.

- (2) The district court judge may
- (a) make any order the justice is empowered to make, or
  - (b) make any order within his jurisdiction as a judge of the district court.

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### PART III

#### DISPOSAL OF ESTRAYS WHERE THERE IS NO POUND DISTRICT

**37.** For the purpose of this Part "premises" means property enclosed by a lawful fence in an improvement district in which no pound district is operating. "premises"

**38.** (1) The following and no other shall be deemed to be a lawful fence for the purposes of this Part, that is Lawful fence

- (a) a substantial fence not less than four feet in height consisting of,
  - (i) rails or boards of at least four runners, the lower runner being not more than eighteen inches from the ground, supported by upright posts not more than twelve feet apart, or
  - (ii) firmly secured upright posts, boards, or palings not more than six inches apart, or
  - (iii) two posts spiked together at the top and resting on the ground in the shape of an inverted V and joined by a brace firmly nailed near the base, with three rails firmly secured on the one side of the inverted V; the top rail being not less than four feet and the bottom rail not more than eighteen inches from the ground, there being also firmly secured on the other side of the inverted V one rail not more than twenty inches from the ground, or
  - (iv) barbed wire and a substantial top rail supported by upright posts not more than sixteen and one-half feet apart, the wires being not less than two in number and the lower one not more than twenty inches from the ground, or
  - (v) not less than three strands of barbed wire on upright posts not more than fifty feet apart, the wires being fastened to droppers not less than two inches in width and one inch in thickness or to droppers consisting of willow or other poles nowhere less than one inch in diameter, or to wire droppers, the said droppers being placed at regular intervals of not more than seven feet apart, or

- (vi) not less than three strands of barbed wire on upright posts firmly planted in the ground, the posts being not more than sixteen and one-half feet apart, and the lowest wire not more than twenty inches from the ground at any post, or
  - (vii) woven wire secured to posts not more than sixteen and one-half feet apart, or
  - (viii) solid stone, cement, brick or wood,
- (b) any river bank or other natural boundary sufficient to keep animals out of any land.
- Fenced crops (2) A fence surrounding growing grain crops or grain crops in the process of being harvested shall not be deemed to be a lawful fence unless the outside limit of the fence is situated at least eight feet from the crop.
- (3) A fence surrounding the stacks of hay or grain shall not be deemed to be a lawful fence unless it is situated at least twelve feet from the stacks.
- Breaking through lawful fence **39.** (1) Where an animal breaks into or enters upon premises enclosed by a lawful fence, the owner of the animal is liable to the person suffering the damage for any damage done by the animal.
- (2) In any proceeding taken in respect of any animal trespassing upon premises enclosed by a lawful fence, the fence enclosing the lands shall be deemed to be a lawful fence if it is established that the animal broke through or passed over or under a part of the fence coming within the definition of a lawful fence, even though another part of the same fence may not come within such definition.
- (3) The onus of establishing that the animal broke through or passed over or under a part of a fence coming within the definition of a lawful fence shall be on the occupier of the land suffering the damage.
- Estray **40.** (1) A person finding an estray on his premises shall notify the owner immediately either in person or by mail.
- Removal of estray (2) The estray shall be removed by its owner from the premises
- (a) if the owner was notified in person within three days of so being notified, or
  - (b) if the owner was notified by mail within ten days from the date the notice was mailed.
- Sustenance of estray (3) The owner of the premises shall provide the estray with such sustenance, shelter and care as is provided for animals of similar age and class in the district.
- Payment by owner of estray (4) The owner of the estray shall pay to the owner of the premises the charges prescribed by Schedule 2, together with the amount claimed by the owner of the premises for any damage done by the animal.
- Failure of owner to redeem estray (5) If the owner of the estray does not redeem and remove the estray, within the time set out in subsection (2), then in addition to any civil liability which he may incur

by reason thereof, he is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars and in default of payment to imprisonment for a term not exceeding three months.

**41.** (1) If the owner of the estray and the person in possession of the estray are unable to agree as to the amount of damages, either party may make a complaint under oath before a justice who shall institute the like proceedings as are authorized under Part XV of the Criminal Code for justices making orders for the payment of money.

Failure to agree on damages

(2) Upon hearing the complaint the justice may determine the matter of the complaint.

**42.** (1) If the owner of an estray is not known, a person finding an estray on his premises shall notify the nearest member of the Royal Canadian Mounted Police and shall complete a statement of finder in Form J in Schedule 1.

Owner of estray unknown

(2) If the member of the Royal Canadian Mounted Police is satisfied that a reasonable effort has been made to locate the owner he shall complete the permit in Form J in Schedule 1, authorizing the finder to ship or truck the animal to the stockyards in Edmonton, Calgary or Lethbridge, whichever point is nearest and declaring the animal to be an estray.

R.C.M.P. notified of estray

(3) The finder shall forward the statement of finder which shall include the signed permit, to the brand inspector at the place where the animal is to be sold.

Brand Inspector notified of estray

(4) The brand inspector shall

Duties of brand inspector

- (a) inspect the animal,
- (b) sell the animal,
- (c) complete the statement of finder as forwarded, and
- (d) immediately forward the completed statement of finder, together with the proceeds of the sale to the Department.

(5) If no person has established his ownership to the animal within two years of the receipt of the proceeds by the Department, the proceeds shall be paid into the General Revenue Fund and no claim shall thereafter be recognized.

Unclaimed proceeds

## PART IV

### PROTECTION OF ANIMALS FROM DOGS

**43.** A person may kill a dog which he finds in the act of pursuing, worrying or destroying an animal elsewhere than on the land occupied by the owner or possessor of the dog.

Killing of dog worrying animal

**44.** (1) Anyone may make a complaint upon oath before a justice that a person owns or has in his possession a dog

Complaint

which within one month previous to the complaint has worried, injured or destroyed an animal outside the lands occupied by the owner or possessor of the dog.

(2) Where a justice finds that a person owned or possessed a dog which has within one month previous to the making of the complaint worried, injured or destroyed an animal outside the lands occupied by the owner or possessor of the dog the justice may

- (a) order the dog killed within twenty-four hours, and
- (b) impose upon the owner or possessor of the dog a penalty not exceeding one hundred dollars and, in default of payment of the penalty, imprisonment for a term not exceeding three months.

Corroborat-  
tion (3) No order shall be made under this section without evidence from one credible witness other than the complainant.

Civil  
liability **45.** No order or imposition of a penalty under this Part shall bar any action against the owner or possessor of the dog for damages caused by the dog pursuing or worrying an animal elsewhere than on the land of the owner or possessor of the dog.

Onus of  
proof **46.** It shall not be necessary for the plaintiff in any action for damages caused by a dog in pursuing or worrying an animal elsewhere than on the land of the owner or possessor of the dog to prove that the defendant was aware of the propensity of the dog to pursue or injure.

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**PART V**

**OFFENCES AND PENALTIES**

Offences by  
pound-  
keeper **47.** (1) A poundkeeper who,

- (a) impounds or assists or incites or employs any person to impound an animal unless the animal is an stray upon the poundkeeper's own property,
- (b) omits or neglects to keep books and write entries as required by this Act or makes any incorrect or untrue entry in such books,
- (c) neglects to give a description to the best of his ability of an impounded animal in any notices as required,
- (d) knowingly allows an animal affected with a contagious or infectious disease to be in the same enclosure with an impounded animal not so infected,
- (e) fails to give any notice required by this Act,
- (f) does anything prohibited by this Act or neglects to do anything required by this Act to be done whereby damage is incurred by any person,

Penalties on  
pound-  
keeper in addition to any civil liability which he may incur by reason thereof, is guilty of an offence and liable on sum-

mary conviction to a fine not exceeding one hundred dollars and in default of payment to imprisonment for a term not exceeding three months.

(2) No poundkeeper shall be liable to be prosecuted for milking or allowing to be milked any cow while such cow is impounded, nor for disposing of the milk as he sees fit. Liability of poundkeeper

**48.** (1) Any person who,

- (a) destroys or damages or attempts to destroy or damage a pound,
- (b) illegally impounds an animal,
- (c) wilfully causes any animal to trespass on cultivated land, any stack of hay, feed or grain,

Penalties for damage to pound, illegal impoundment and trespass

is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars and in default of payment to imprisonment for a term not exceeding three months.

(2) Any person who rescues or attempts to rescue an animal from an impounder or from the pound shall be dealt with under section 168 of the Criminal Code. Rescuing impounded animals

**49.** Any person violating any of the provisions of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars and in default of payment to imprisonment for a term not exceeding three months. General penalty

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## PART VI

### GENERAL

**50.** (1) The Lieutenant Governor in Council may make such regulations as are deemed necessary or advisable for the carrying out of the provisions of this Act according to their intent. Regulations

(2) All regulations shall

- (a) be published in *The Alberta Gazette*,
- (b) come into force upon publication or on such date as may be fixed in the regulations, and
- (c) have the same force and effect as if they were enacted by this Act.

**51.** No action shall be maintainable against a poundkeeper where the poundkeeper has exercised the duties and rights imposed upon him by this Act. Right of action

**52.** Except where otherwise stated, nothing contained in this Act shall be deemed to deprive a person of any action, right or remedy that he may otherwise have according to law. Right of action not affected by Act



Repeal

**53.** *The Domestic Animals (Unorganized Territory) Act*, being chapter 92 of the Revised Statutes of Alberta, 1942, is hereby repealed.

Continuation of pound districts and poundkeepers

**54.** Notwithstanding section 53,

- (a) all pound districts established under *The Domestic Animals (Unorganized Territory) Act* continue until such time as the pound districts are discontinued pursuant to this Act, and
- (b) the poundkeepers appointed pursuant to *The Domestic Animals (Unorganized Territory) Act* shall continue as poundkeepers under this Act until such time as they resign or are removed from the appointment.

Coming into force

**55.** This Act comes into force on the first day of July, 1953.

SCHEDULE 1

FORM A

(Section 5)

APPLICATION FOR FORMATION OF POUND DISTRICT

To the Minister of Agriculture:

We, the undersigned, being occupiers of land in.....

hereby make application to have the provisions of Part I of *The Improvement Districts Stray Animals Act* respecting pound districts enforced within the said area, and to have the following animals prohibited during the periods herein below set out, this is to say:

We recommend: ..... of .....  
(name) (address)  
as poundkeeper .....  
(land and location)

Name	Land owned or occupied				
	Qr.	Sec.	Tp.	Rge.	W.Mer.
.....					
.....					

FORM B

(Section 5)

DECLARATION

I, ..... of ..... do solemnly declare:

1. That the total number of persons in the area described in the foregoing application being occupiers of land is .....  
(number)
2. That I was personally present and did see each of the ..... persons whose names are subscribed  
(number) thereto sign the said statement.
3. That each of the ..... persons signing the  
(number) statement is qualified to do so by virtue of being the occupier of land within the proposed pound district.
4. That each person signing the said statement was cognizant of the contents thereof before signing.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*.

Declared before me at.....  
..... in  
the Province of Alberta, this  
..... day of  
....., 19.....

.....  
*(Signature of person  
making declaration)*

.....  
*(Signature of person administering declaration) ....*

---

**FORM C**  
**(Section 5)**

**OBJECTION TO FORMATION OF POUND DISTRICT**

To the Minister of Agriculture:

We the undersigned being the occupiers of land in.....

.....  
*(Description of land contained in the proposed pound  
district)*

.....  
.....  
.....  
hereby record our objection to the formation of a pound  
district in accordance with the provisions of Part I of *The  
Improvement Districts Stray Animals Act*:

**LAND OWNED OR OCCUPIED**  
Qr. Sec. Tp. Rge. W.Mer.

**NAME**

.....  
.....  
.....

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**FORM D**  
**(Section 17)**

**NOTICE OF IMPOUNDMENT**

To ..... P.O..... Date....., 19.....  
..... Address.....  
*(Name of owner)*

Notice is hereby given under section 17 of *The Improve-  
ment Districts Stray Animals Act* that a

Class of  
animal

Colour

Brief general

description,  
giving marks,  
probable age,  
and brand (if  
any)

was impounded in the pound kept by the undersigned on  
the..... quarter of section..... township.....  
range..... west of the..... meridian, on the.....  
day of....., 19.....

.....  
Signature of poundkeeper.

---

FORM E

(Section 18)

POUND NOTICE

To Whom It may Concern :

Notice is hereby given under section 18 of *The Improvement Districts Stray Animals Act*, that  
is impounded in the pound kept by the undersigned on the  
..... quarter of section..... township.....  
range..... west of the..... meridian, on..... day, the  
..... day of....., 19....., and will be sold  
at..... on..... at.....  
(time) (date) (place of sale)  
if not redeemed.

.....  
Poundkeeper.

---

FORM F

(Section 18)

NOTICE OF IMPOUNDMENT

P.O.....Date....., 19.....

To Recorder of Brands  
Provincial Department of Agriculture  
Edmonton, Alberta.

Notice is hereby given under section 18 of *The Improvement Districts Stray Animals Act* that a

Class of  
Animal

Colour

Brief general  
description,  
giving marks,  
probable age,  
and brand (if  
any)

was impounded in the pound kept by the undersigned on the..... quarter of section..... township..... range..... west of the..... meridian, on the..... day of ....., 19....., and will be sold on.....  
 (date)  
 at..... at..... if not redeemed.  
 (time) (place of sale)  
 .....  
 (Signature of poundkeeper)

FORM G

(Section 20)

POUND SALE NOTICE

Notice is hereby given under section 20 of *The Improvement Districts Stray Animals Act*, that will be sold at..... on..... day....., the..... day of....., 19....., at the pound kept by the undersigned on the..... quarter of section..... township..... range..... west of the..... meridian, unless redeemed by the owner before the day of the sale.  
 Dated....., 19.....

.....  
 Poundkeeper.

FORM H

STATEMENT OF SALE OF IMPOUNDED ANIMAL

P.O..... Date....., 19.....

To The Livestock Commissioner  
 Department of Agriculture  
 Edmonton, Alberta.

INFORMATION REQUIRED TO BE FURNISHED BY POUNDKEEPER:

Class of animal  
 General description and brand (if any)  
 Name and address of impounder  
 Date of impounding  
 Date of posting pound notice (Form D or E)  
 Date of Sale  
 Name and address of purchaser  
 Total amount realized..... \$.....  
 Impounder's Fees and Damages—  
 1. For impounding an entire animal..... \$.....  
 2. For damages (any animal)..... \$.....  
 Poundkeeper's Fees and Charges—  
 1. For keep ..... days at ..... per day.. \$.....  
 2. For notifying owner of animals impounded or posting notices where owner is unknown ..... \$ 1.00

3. For notifying the Recorder of Brands (if animal is branded) .....	\$ .25
4. For advertising in local paper (amount actually expended) .....	\$.....
5. For posting notices of sale.....	\$ 1.00
6. For branding each animal after sale.....	.50
7. For postage and exchange on remit- tance for Minister (if any).....	.....\$.....
<hr/>	
Total expenses .....	\$.....
Amount sent to Department .....	\$.....
<hr/>	
Poundkeeper.	
Post Office .....	

FORM J

(Section 42)

STATEMENT OF FINDER

I,..... of..... residing  
on section..... township..... range..... west.....,  
do hereby certify that the following animal:

Class  
Description  
Brand

is an estray on my premises (land enclosed by a legal  
fence) since .....  
(date)

I further certify that I have made inquiries in my district  
and am unable to locate the owner and I therefore request  
permission to dispose of the said animal as provided under  
section 42 of *The Improvement Districts Stray Animals Act*.

.....  
(date)

.....  
(signature of finder)

Permit to Dispose of Animal

Permission is hereby granted to..... to  
make arrangements for delivery of the above animal to the  
stockyards at..... to be sold by the  
brand inspector as an estray.

.....  
(date)

Signed.....  
(member of R.C.M.P.)

Statement of Brand Inspector

I hereby certify that I have this day sold to.....

.....  
(name and  
address of buyer)  
the animal shipped as an estray by

.....  
(finder)  
and describe said animal as follows:

I attach hereto .....cheque in the  
 amount of.....being net proceeds of  
 the sale.  
 (Signed).....  
 (Buyer's)  
 (Brand Inspector)

THIS FORM MUST BE FORWARDED TO THE BRAND  
 INSPECTOR AT THE POINT OF MARKETING

## SCHEDULE 2

### FEEES

The following and no other fees shall be charged  
 Under Part II

1. To the impounder:
  - (1) For impounding a stallion ..... \$3.00
  - (2) For impounding a bull ..... 2.00
  - (3) For impounding a ram or boar ..... 1.00
2. To the poundkeeper:
  - (1) to provide care and sustenance for each animal for each day or fraction of a day such animal is impounded:
    - (a) for each stallion ..... \$2.00
    - (b) for each bull or boar ..... 1.50
    - (c) for each ram or he-goat ..... 1.00
    - (d) for each horse, mule, ass, head of cattle or pig ..... 1.00
    - (e) for each sheep or goat ..... .50
    - (f) for each goose or turkey ..... .20
  - (2) For notifying the owner or posting notices where the owner is unknown ..... 1.00
  - (3) for notifying the Recorder of Brands, if the animal is branded ..... .25
  - (4) for branding each animal sold ..... .50
  - (5) for advertising—the amount actually expended by him.
  - (6) for posting notices of sale..... 1.00
  - (7) for postage, exchange and money order charges on transmission of the proceeds of the sale—the amount actually expended.
3. A poundkeeper is entitled to remuneration for the care and sustenance of any animal for a period not exceeding twenty days which remuneration shall not exceed the allowable charges for that class of animal set out in this Schedule.

## Under Part III

To the finder:

- (1) For providing care and sustenance for a period not exceeding ten days for each animal for each day or fraction of a day starting from the date of mailing or delivering the notification to the owner, until the animal is removed from the premises, and not exceeding the allowable charges set out in this Schedule for that class of animal.
  - (a) for each stallion ..... 2.00
  - (b) for each bull or boar ..... 1.50
  - (c) for each ram or he-goat ..... 1.00
  - (d) for each horse, mule, ass, head of cattle or pig ..... 1.00
  - (e) for each sheep or goat ..... .50
  - (f) for each goose or turkey ..... .20
- (2) For notifying the owner ..... 1.00
- (3) The finder is not entitled to any remuneration for animals where the owner is not known and the animal is disposed of under section 42 of this Act.



No. 119

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FIRST SESSION  
TWELFTH LEGISLATURE

2 ELIZABETH II

1953

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**BILL**

An Act to Provide for the Control of  
Stray Animals in Improvement  
Districts

---

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Received and read the

First time .....

Second time.....

Third time.....

---

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HON. MR. URE

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