

## BILL 33

2005

### STRAY ANIMALS AMENDMENT ACT, 2005

(Assented to \_\_\_\_\_, 2005)

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### Amends RSA 2000 cS-20

**1 The *Stray Animals Act* is amended by this Act.**

**2 Section 1 is amended by repealing clause (c) and substituting the following:**

(c) “livestock” means livestock as defined in the regulations;

**3 Section 4 is amended by striking out “, assessors”.**

**4 Section 5 is repealed and the following is substituted:**

#### **Liability for trespassing livestock**

**5(1)** Subject to section 6, when livestock trespass, the owner of the livestock and the last person in possession of the livestock are jointly and severally liable for

(a) damage done to real or personal property caused by the trespass of the livestock or by any person in capturing the livestock, and

(b) expenses incurred as described in subsection (2).

**(2)** Expenses, for the purposes of subsection (1)(b) and sections 7(2)(b), 17(a)(ii) and 18(1) and (2)(a), are expenses incurred in the following:

- (a) capturing, confining and impounding the livestock;
- (b) identifying the livestock;
- (c) attempting to ascertain the owner or the last person in possession of the livestock;
- (d) maintaining the livestock;
- (e) transporting the livestock;
- (f) selling the livestock.

**5 Section 7(2)(b) is repealed and the following is substituted:**

- (b) any expenses described in section 5(2).

**6 Section 8 is amended**

- (a) in subsection (3) by striking out “and expenses incurred in connection with the capture” and substituting “and claim**

any expenses incurred in connection with the capture of the livestock on the statement of capture”;

**(b) by adding the following after subsection (3):**

**(4)** When an owner or occupier or a person on the owner’s or occupier’s behalf captures livestock trespassing on the owner’s or occupier’s land and the owner of the livestock or the last person in possession of the livestock has been identified, the owner or occupier or the person on the owner’s or occupier’s behalf must as soon as possible notify the owner of the livestock or the last person in possession of the livestock of the capture and confinement of the livestock.

**7 Section 17 is amended**

**(a) in clause (a)(ii) by striking out “referred to in section 5(b)” and substituting “described in section 5(2)”;**

**(b) by striking out “or” at the end of clause (a) and adding the following after clause (a):**

(a.1) publish the information contained in the notice under clause (a) in a form and manner established in or pursuant to a regulation, or

**8 Section 18 is amended**

**(a) in subsection (1) by striking out “referred to in section 5(b)” and substituting “described in section 5(2)”;**

**(b) by adding the following after subsection (1):**

**(1.1)** The inspector shall distribute the money received from the owner of the livestock under subsection (1) to pay the expenses incurred by the owner, the occupier or the person on the occupier’s behalf who captured the livestock as claimed in the statement of capture completed under section 8(3).

**(c) in subsection (2)(a) by striking out “referred to in section 5(b)” and substituting “described in section 5(2)”.**

**9 Section 19 is repealed and the following is substituted:**

**Disposition of proceeds of sale of livestock**

**19(1)** When livestock are sold by public auction pursuant to this Act, the proceeds of the sale of the livestock must be paid to the Minister and be disbursed in accordance with this section.

**(2)** The proceeds of the sale of the livestock must first be disbursed in the following order on proof of the expenses having been incurred as claimed in the statement of capture under section 8(3) or as claimed in any other manner the Minister determines:

- (a) for expenses incurred in selling the livestock;
- (b) for expenses incurred in transporting the livestock;
- (c) for expenses incurred in identifying the livestock;
- (d) for expenses incurred in maintaining the livestock;
- (e) for expenses incurred in capturing, confining and impounding the livestock;
- (f) for expenses incurred in ascertaining or attempting to ascertain the owner or the last person in possession of the livestock.

**(3)** The Minister shall make a payment under subsection (2) only to the extent that the claim is reasonable, in the opinion of the Minister, and to the extent that money is available.

**(4)** The Minister shall pay compensation out of any balance of the proceeds of the sale of the livestock remaining after compliance with subsection (2), to the extent that money is available, to any person substantiating a claim to the satisfaction of the Minister of damage to real or personal property caused by the livestock or by any person capturing the livestock.

**(5)** The Minister must maintain a trust account into which any balance of the proceeds of the sale of livestock remaining after compliance with subsections (2) and (4) must be deposited.

(6) The Minister may pay out of the trust account the balance of the proceeds of sale pertaining to the livestock sold under section 18(2) to any person who proves to the satisfaction of the Minister that the person was the owner of the livestock prior to the sale.

(7) The claim for the balance of the proceeds of the sale of the livestock under subsection (6) must be made within one year from the date the livestock is sold by public auction.

(8) When livestock are sold by public auction pursuant to this Act and a dispute exists or arises between the former owner or the last person in possession of the livestock and a person claiming to have suffered damage to real or personal property caused by the livestock or by any person capturing the livestock, the proceeds of the sale of the livestock must be disbursed in accordance with subsections (2) and (4) unless

- (a) the parties to the dispute agree in writing to the disposition of the balance of the proceeds of the sale of the livestock, in which case the Minister shall pay the balance of the proceeds of the sale of that livestock in accordance with the agreement, or
- (b) a court awards damages and directs payment of an amount from the balance of the proceeds of the sale of the livestock to one or both of the parties to the dispute, in which case the Minister shall pay an amount in accordance with the direction of the court and pay any balance of the proceeds of the sale of the livestock to the former owner of that livestock.

**10 Section 20 is repealed.**

**11 Section 21 is repealed and the following is substituted:**

**Insufficient proceeds**

**21** Where livestock are sold by public auction under section 18(2) and the proceeds of the sale are insufficient to pay the expenses referred to in section 19(2), the Minister may pay the expenses out of the aggregate amounts deposited in the trust account under section 19(5), but the amount of the expenses paid must not be greater than the amount in the trust account.

**12 Section 22 is repealed and the following is substituted:**

**Dispute over expenses**

**22** When a dispute arises as to the reasonableness of any claim for expenses under this Part, the Minister may determine what expenses are reasonable in the circumstances, and the Minister's decision is final.

**13 The heading to Part 3 is repealed and the following is substituted:**

**Part 3  
Protection of Property from  
Dogs and Designated Animals**

**14 Section 24 is repealed and the following is substituted:**

**Definitions**

**24** In this Part,

- (a) “designated animal” means an animal designated under the regulations under section 26.1;
- (b) “domestic fowl” means any domestic variety of fowl.

**15 The following is added after section 26:**

**Regulations respecting designated animals**

**26.1** The Lieutenant Governor in Council may make regulations

- (a) designating a species of animal as a designated animal for the purposes of this Part;
- (b) requiring persons who import designated animals into Alberta or keep designated animals in captivity to obtain a registration certificate in respect of that activity from the Minister, and governing the issuing of registration certificates;

- (c) requiring persons who keep designated animals in captivity to confine them, and governing the manner in which designated animals must be confined;
- (d) requiring persons who keep designated animals in captivity to identify them, and governing the manner in which designated animals must be identified;
- (e) authorizing an inspector to
  - (i) enter and inspect any place, other than a private dwelling, for the purpose of ensuring that the regulations under this section are complied with, and
  - (ii) enter any land for the purpose of hunting, trapping, capturing or destroying designated animals that are running at large;
- (f) authorizing an inspector, an owner or occupier of land or a municipal bylaw enforcement officer to hunt, trap, capture or destroy designated animals that are running at large, and governing the circumstances under which and the terms and conditions subject to which those powers may be exercised;
- (g) governing the manner in which and the means by which designated animals running at large may be hunted, trapped, captured or destroyed;
- (h) authorizing the Minister to designate an area in Alberta as a control area for the purposes of preventing the destruction by designated animals of land, livestock or other property in the control area;
- (i) authorizing the hunting, trapping, capture or destruction of designated animals in a control area, and governing the circumstances under which and the terms and conditions subject to which those powers may be exercised.

**16 Section 27 is amended**

- (a) in subsection (1)**

- (i) in clause (b) by striking out “or assessor”;**
- (ii) in clause (d)**
  - (A) by striking out “or assessor”;**
  - (B) by striking out “or assessor’s”;**
- (iii) in clause (g) by adding “, including payment for reasonable expenses incurred from the trust account under section 19(5)” after “duty or function”;**
- (iv) in clause (h) by striking out “notwithstanding sections 19 and 21,”;**
- (v) in clause (i) by striking out “Provincial Treasurer” and substituting “Minister”;**
- (vi) by adding the following after clause (i):**
  - (i.1) respecting the manner in which the aggregate amounts deposited in the trust account under section 19(5) must be disposed of when a delegation is revoked;
- (b) in subsection (2)(a) by striking out “or assessor”.**

**17 Section 35 is amended**

- (a) by adding the following after clause (b):**
  - (b.1) governing the form and manner in which the information in a notice under section 17(a.1) must be published;
- (b) by repealing clause (d) and substituting the following:**
  - (d) defining livestock for the purposes of this Act;

**18 Section 37 is amended**

- (a) in subsection (3)(b) by striking out “or” at the end of subclause (ii), by adding “or” at the end of subclause (iii) and by adding the following after subclause (iii):**

(iv) designated for grazing use by a municipal authority within the meaning of the *Municipal Government Act*.

**(b) in subsection (4) by striking out “\$500” and substituting “\$2000”.**

**19 Section 40 is repealed.**

**20(1)** In this section, “former Act” means the *Stray Animals Act* as it read before the coming into force of the *Stray Animals Amendment Act, 2005*.

**(2)** Any liability for damages and expenses that arose under the former Act, and any claim made under section 19 of the former Act, shall be dealt with in accordance with the former Act.

**21 This Act comes into force on Proclamation.**

### **Explanatory Notes**

**1** Amends chapter S-20 of the Revised Statutes of Alberta 2000.

**2** Section 1 presently reads:

*1 In this Act,*

(c) “livestock” means

(i) any horse, head of cattle, sheep, swine, goat, mule or ass, or

(ii) any other animal specified in the regulations as livestock to which this Act and the regulations apply;

**3** Section 4 presently reads:

*4 The Minister may appoint inspectors, assessors and any other persons required for the purposes of this Act and the regulations, and may prescribe the duties and fix the remuneration and travelling and living expenses for any person appointed who is not an employee as defined in the Public Service Act.*

**4** Section 5 presently reads:

*5 When livestock trespass and*

- (a) damage is done to real or personal property by the livestock or by any person in capturing the livestock, or*
- (b) expenses are reasonably incurred in capturing, maintaining and transporting the livestock and in ascertaining the owner or the last person in possession of the livestock,*

*the owner of the livestock and the last person in possession of the livestock are jointly and severally liable for the damage or expenses, or both, except as otherwise provided in section 6.*

**5** Section 7(2)(b) presently reads:

*(2) The person doing or failing to do the act or thing referred to in subsection (1) is liable for*

- (b) any expenses reasonably incurred in capturing, maintaining and transporting the livestock and in ascertaining the last person in possession of the livestock.*

**6** Section 8 presently reads in part:

*(3) When an owner or occupier or a person on the owner's or occupier's behalf captures livestock trespassing on the owner's or occupier's land, the owner or occupier or the person on the owner's*

*or occupier's behalf shall, within 48 hours of the time that the livestock is confined, complete a statement of capture and expenses incurred in connection with the capture and send it to the inspector.*

**7** Section 17 presently reads in part:

*17 When an inspector impounds livestock, the inspector shall*

- (a) if the inspector knows or is able to determine the owner or the last person in possession of the livestock,*
  - (i) notify one or both of them of the impoundment of the livestock, and*
  - (ii) by notice in writing warn the owner or the last person in possession of the livestock, or both, that, unless the expenses referred to in section 5(b) are paid to the inspector within 14 days after the date of the notice, the livestock will be sold by public auction without further reference to either of them,*

*or*

- (b) if the inspector does not know and after reasonable inquiry is unable to determine who is the owner or the last person in possession of the livestock, sell the livestock by public auction.*

**8** Section 18 presently reads:

*18(1) If, before livestock impounded pursuant to this Act is sold by public auction, the owner or the last person in possession of the livestock claims it and pays the expenses referred to in section 5(b),*

*the inspector shall release or authorize the person confining the livestock to release the livestock to the*

*owner or the last person in possession of the livestock.*

*(2) When livestock is impounded pursuant to this Act and*

*(a) the owner or the last person in possession of the livestock refuses to pay the expenses referred to in section 5(b), or*

*(b) no person claims the livestock,*

*the inspector shall, on expiry of the notice referred to in section 17(a) or after the reasonable inquiry referred to in section 17(b), sell the livestock by public auction.*

**9** Section 19 presently reads:

*19(1) When livestock are sold by public auction pursuant to this Act, the proceeds of sale shall be disbursed in accordance with this section.*

*(2) If the owner or the last person in possession of the livestock is not known, the proceeds of a sale of livestock shall be disbursed in the following order of priority, on proof of the expenses having been incurred:*

*(a) to pay the expenses of selling the livestock;*

*(b) to pay any expense in capturing and confining the livestock;*

*(c) to pay any expense in transporting the livestock and attempting to ascertain the owner or the last person in possession of the livestock;*

*(d) to pay any expense in maintaining the livestock.*

*(3) Any balance of the proceeds of a sale remaining after compliance with subsection (2) shall be paid into the General Revenue Fund.*

*(4) The Provincial Treasurer shall pay out of a balance referred to in subsection (3), to the extent that money is available in that balance, to a person claiming damage to real or personal property caused by the livestock or by a person capturing the livestock, the following amount:*

- (a) the amount of the damage claim, if it is reasonable in the opinion of an inspector, or*
- (b) the assessment calculated by an assessor under section 20.*

*(5) The Minister may direct the Provincial Treasurer to pay out of the balance, if any, of the proceeds of a sale of livestock after compliance with subsection (4) to a person who*

- (a) claims, within one year from the date of the sale of livestock, and*
- (b) establishes to the satisfaction of the Minister*

*that the person was the owner of the livestock prior to the sale.*

*(6) When livestock are sold by public auction pursuant to this Act and a dispute exists or arises between the former owner or the last person in possession of the livestock and a person claiming to have suffered damage to real or personal property as a result of the trespass of the livestock, the proceeds of a sale of the livestock shall be paid in accordance with subsections (2) and (3) until*

- (a) the parties to the dispute agree in writing to the disposition of the balance of the proceeds, in which case the Provincial Treasurer shall pay the balance of the proceeds of the sale of that livestock in accordance with the agreement, or*

- (b) *a court awards damages and directs payment of the balance of the proceeds to one or both of the parties to the dispute, in which case the Provincial Treasurer shall pay an amount in accordance with the direction of the court and pay any balance of the proceeds of the sale of that livestock to the former owner of that livestock.*

**10** Section 20 presently reads:

*20(1) When livestock is impounded pursuant to this Act and*

- (a) *the owner and the last person in possession of the livestock are not known, and*
- (b) *a person claiming to have suffered damage to real or personal property as a result of trespassing livestock and an inspector do not agree on the amount of damage done by the livestock and by any person in capturing the livestock,*

*the Minister may, on being requested to do so, direct an assessor to assess the amount of the damage and, when appropriate, to determine the livestock responsible for the damage.*

*(2) An assessor shall, on making the assessor's assessment and determination, give a written notice to the Minister, the inspector and the person claiming to have suffered damage, showing the assessment and the determination, if any.*

*(3) The assessment and the determination, if any, of the assessor is final for the purpose of computing the amount to be paid to a person claiming to have suffered damage pursuant to section 19(4).*

**11** Section 21 presently reads:

*21 Where livestock is sold by public auction pursuant to this Act and the proceeds of the sale are insufficient to pay the expenses referred to in section 19(2), the Provincial Treasurer may pay the expenses out of the General Revenue Fund, but the aggregate amount of the expenses paid shall not be greater than*

*(a) the aggregate of the amounts referred to in section 19(3) paid into the General Revenue Fund,*

*less*

*(b) the aggregate of the amounts, if any, claimed under section 19.*

**12** Section 22 presently reads:

*22 When a dispute arises as to the reasonableness of any claim for expenses under this Part, the Minister may direct an assessor to determine what expenses are reasonable in the circumstances and the assessor's decision is final.*

**13** Change of heading.

**14** Section 24 presently reads:

*24 In this Part, "domestic fowl" means any domestic variety of fowl.*

**15** Regulations respecting designated animals.

**16** Section 27 presently reads in part:

*27(1) The Minister may make regulations*

- (b) *delegating to one or more delegated authorities any of the powers, duties or functions of the Minister or of an inspector or assessor under this Act or the regulations, except*
    - (i) *the Minister's power to make regulations under this section or section 36, and*
    - (ii) *the Minister's powers, duties and functions under section 9;*
  - (d) *limiting the liability of a delegated authority and its employees, agents, directors or officers in an action for negligence with respect to the delegated power, duty or function when the delegated authority and its employees, agents, directors or officers act in good faith pursuant to the delegation, including but not limited to providing that any limitation of liability applicable to an inspector or assessor may be made applicable to a delegated authority and its employees, agents, directors or officers when they carry out the inspector's or assessor's power, duty or function;*
  - (g) *respecting the payment of a fee to a delegated authority for the carrying out of a delegated power, duty or function;*
  - (h) *notwithstanding sections 19 and 21, authorizing the delegated authority to collect the proceeds from a public auction and respecting the manner in which those proceeds are to be dealt with by the delegated authority;*
  - (i) *authorizing a delegated authority to collect, on behalf of the Crown, any money lawfully due to the Crown under this Act and respecting how the money is to be collected and accounted for and remitted to the Provincial Treasurer;*
- (2) *When a delegation is made under subsection (1),*

- (a) *a reference in this Act or the regulations to the Minister or to an inspector or assessor with respect to delegated powers, duties or functions is to be read as if it were a reference to the delegated authority, and*

**17** Section 35 presently reads in part:

*35 The Lieutenant Governor in Council may make regulations*

- (d) *prescribing any animal as livestock;*

**18** Section 37 presently reads in part:

*(3) Subsection (2) does not apply to a highway, other than a primary highway,*

*(b) within the boundaries of land*

- (i) held under a grazing lease or a grazing permit under the Public Lands Act,*
- (ii) established and operated as a community grazing reserve under the Public Lands Act, or*
- (iii) designated for grazing use under the Forest Reserves Act.*

*(4) A person who contravenes this section is guilty of an offence and liable to a fine of not more than \$500.*

**19** Section 40 presently reads:

*40 A person who finds stray livestock on the person's land or land that the person occupies shall, within 7 days after the person finds the livestock, notify the registered brand owner of the livestock or an inspector.*

**20** Transitional.

**21** Coming into force.