

LAWS OF FIJI

CHAPTER 166

TRESPASS OF ANIMALS

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TRESPASS OF ANIMALS

Ordinance No. 30 of 1955, Legal Notice No. 86 of 1979

AN ACT RELATING TO THE TRESPASS AND STRAYING OF ANIMALS

[16 December 1955]

Short title

1. This Act may be cited as the Trespass of Animals Act.

Interpretation

2. In this Act, unless the context otherwise requires –

"animal" means any horse, donkey, cattle, mule, sheep, pig or goat;

"fence" means a sufficient fence of any of the kinds mentioned in the First Schedule and includes all necessary gates, floodgates, culverts and channels.

Animals to be kept confined

- 3.—(1) Every owner of any animal shall keep such animal confined within a corral, fold, pen, stable or building at all times other than –

(a) any time when such animal is properly and securely tethered;

(b) any time when such animal is under the charge of some person who accompanies

the animal in such manner as to have reasonable control over it;

(c) at any time when such animal is upon land completely enclosed by a fence as defined in this Act.

(2) Subject to the provisions of subsection (3) where any animal is found not confined within a corral, fold, pen, stable, or building at a time when such animal is required to be so confined by the provisions of subsection (1), the owner of such animal shall be guilty of an offence and liable upon conviction to a fine not exceeding \$20.

(3) It shall be a defence to a charge under the provisions of subsection (2) for the owner to prove –

(a) that he took all reasonable steps to ensure that the animal was confined as required by subsection (1) at the time relevant to the charge; or

(b) that he took all reasonable steps to ensure that the animal was properly and securely tethered at the time relevant to the charge; or

(c) that he took all reasonable steps to ensure that the animal was in charge of and accompanied by a person competent to exercise reasonable control over the animal at the time relevant to the charge;

(d) that he took all reasonable steps to ensure that the animal was on land completely enclosed by a fence at the time relevant to the charge.

Occupier of land trespassed upon to receive compensation

4.—(1) The occupier of any cleared or cultivated land trespassed upon by an animal shall be entitled in respect of such trespass to recover by action in a competent court compensation according to the rate set out in the Second Schedule, together with such costs as the court considers reasonable.

(2) In the case of a further trespass by the same animal in the same ownership upon the same cleared or cultivated land within one year of a previous trespass, the rate of compensation under this section in respect of any such further trespass shall be double that set out in the Second Schedule.

(3) Compensation under this section shall be recoverable although no damage may have been caused by the trespass and, where damage has been caused, shall not be taken into account in the assessment of the measure thereof.

Interference with animals to enable trespass

5. Any person who, with the intention of causing or enabling another person's animal to trespass, interferes with such animal or with any fence, corral, fold, pen, stable or building by or in which it is confined or with any means by which it is tethered shall be guilty of an offence and liable upon conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

FIRST SCHEDULE

(Section 2)

(Amended by Legal Notice 86 of 1979.)

DESCRIPTION OF SUFFICIENT FENCE

1. A post-and-rail fence at least 1,150 mm in height of substantial material firmly erected with not less than four rails, the space between the two bottom rails and the bottom rail and the ground not to exceed 125 mm and the posts to be not more than 2.5 m apart.
2. A batten-and-wire fence at least 1,150 mm in height of substantial material firmly erected with one or more wires, the wires to be not lighter than No. 8 in steel or black or galvanized iron. The battens to be either driven into the ground and securely stapled or intertwined in wires in an upright position and to be not more than 75 mm apart.
3. Any paling fence at least 1,150 mm in height with posts and two rails and having split or sawn timber placed upright and well nailed to both rails, there being not more than 100 mm of opening between each upright piece of timber.
4. A substantial wire fence having not less than three wires tightly stretched or two wires with a top rail or barbed-wire with or without battens or lacing affixed to the wires between the posts or standards, the posts or standards to be of durable wood, concrete or iron, well and substantially erected and not more than 3.5 m apart, the top wire not to be less than 1,150 mm from the surface of the ground, the wires to be not lighter than No. 8 in steel or black or galvanized iron.
5. A substantial wire fence having not less than three wires tightly stretched or two wires with a top rail or barbed-wire with battens not more than 1.8 m apart, the wires being stapled to or let through such battens which shall be of durable wood, concrete or iron, well and substantially erected. The posts or standards to be not less in number than one every 10 metres the top wire not to be less than 1,150 mm from the surface of the ground, the wires to be not lighter than No. 8 in steel or black or galvanized iron.
6. A stone wall, well and substantially built not less than 1.2 m in height and not less than 760 mm in width at base.
7. A close and sufficient live fence.
8. A combination of the above kinds of fences at least 1,150 mm in height.

SECOND SCHEDULE

(Section 4)

FEE

\$

For each animal

0.50

Controlled by Ministry of Primary Industries