
GENERAL NOTICE

NOTICE 398 OF 2013

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NATIONAL ANIMAL POUNDS BILL

PUBLICATION FOR INFORMATION AND FOR PUBLIC COMMENTS

I, Tina Joemat-Pettersson, Minister of Agriculture, Forestry and Fisheries hereby invite all interested institutions, organisations and individuals to submit written comments on the National Animal Pounds Bill.

Comments must be submitted in writing within 30 days from date of publication of this notice. They must be sent to:

The Scientific Manager: Animal Production
Directorate: Animal Production
Department of Agriculture, Forestry and Fisheries
Private Bag X 138
PRETORIA
0001

Physical address: Department of Agriculture, Forestry and Fisheries
Delpen Building
Corner of Union and Annie Botha Avenues
Riviera
Pretoria

E-mail: keithr@daff.gov.za
Fax: 012 319 7425

Tina Joemat-Pettersson

Minister of Agriculture, Forestry and Fisheries

REPUBLIC OF SOUTH AFRICA

NATIONAL ANIMAL POUNDS BILL

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. ___ of ___)*

(The English text is the official text of the Bill)

(MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES)

BILL

To establish national norms and standards in order to maintain consistency relating to pounds and the impounding of animals; to provide national norms and standards for the registration, establishment and administration of pounds; to provide for essential national standards and minimum standards required for the rendering of pound services; to promote the effective monitoring and control of impounded animals within the Republic; to promote the development of a responsible and sustainable pounding industry; to empower the Registrar to establish a National Animal Pound Trust; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the administration and management of pounds have been identified as a critical issue for effective monitoring and control of the movement of animals in the Republic;

AND WHEREAS the existing pounds are uncoordinated and open to abuse and mismanagement to the detriment of livestock owners particularly livestock owners from the poor and rural communities, who rely on livestock for subsistence or whose status and role within their communities is determined by their animals;

AND WHEREAS the effective management and administration of pounds requires essential national standards to combat the abuse and mismanagement of pounds in the Republic.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa as follows: —

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CHAPTER 1

Definitions

1. In this Act, unless the context indicates otherwise—

"animal" means any cattle, donkey, goat, horse, lamb, pig, poultry, sheep, and domesticated animal which is in captivity or under control of a person.

"Department" means the national Department of Agriculture Forestry and Fisheries;

"dentification mark" has the meaning ascribed to it in the Animal Identification Act, 2002 (Act No.6 of 2002);

"mark" has the meaning ascribed to it in the Animal Identification Act, 2002 (Act No. 6 of 2002);

"Minister" means the Minister responsible for agriculture, forestry and fisheries;

"municipal entity" means a municipal entity as contemplated in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"municipality" means a municipality as contemplated in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"owner" in relation to—

- (a) an animal includes the owner and any other person having lawful custody or possession of such animal, or the authorised agent of such owner or other person;
- (b) land includes the owner, lessee or lawful occupier of such land, or the agent of such owner, lessee or lawful occupier, and
- (c) a pound includes the person, traditional authority, municipal entity, or a municipality who establishes or has established a pound;

"pound" means an animal pound established in terms of section 13;

"**pound keeper**" means a person appointed in terms of section 10;

"**Registrar**" means a person appointed in terms of section 8;

"**Trust**" means the National Animal Pounds Trust contemplated in section 22.

Objects of Act

2. (1) The objects of this Act are to—
- (a) promote the effective monitoring and control of impounded animals within the Republic by—
 - (i) setting essential national standards relating to pounds and the impounding of animals;
 - (ii) providing for the registration of pounds;
 - (iii) regulating the registration, establishment and closure of pounds;
 - (iv) establishing minimum national norms and standards required for the rendering of pound services; and
 - (b) promote the development of a responsible and sustainable pounding industry in a manner that facilitates—
 - (i) the entry of new participants into the pounding industry;
 - (ii) the diversity of ownership in the pounding industry;
 - (iii) ethos of social responsibility in the pounding industry; and
 - (iv) public participation in the consideration of applications for the registration of pounds.

CHAPTER 2

NATIONAL NORMS AND STANDARDS FOR IMPOUNDING OF ANIMALS

Norms and standards

3. (1) The Minister must by notice in the Gazette determine compulsory norms and standards for pounds.
- (2) The compulsory norms and standards must—
 - (a) determine and reflect the national policy and programmes;
 - (b) provide for the exercise and control over animals;
 - (c) provide for the registration and establishment of pounds;
 - (d) provide for the effective management of pounds;
 - (e) provide for the care of impounded animals; and
 - (f) provide for the effective monitoring and evaluation of compliance with the provisions of this Act.

Exercise of control over animals

4. (1) The owner of an animal must exercise control over his or her animal so as to avoid damage to another person's property.
- (2) The owner of an animal or the person in charge of the animal is liable for damage caused by that animal.

Disputes regarding demand for damages

5. (1) If the owner of the land or the owner of the animal disputes the amount of damages claimed as a result of the damage caused by the impounded animal, he or she may within a reasonable period of time of receipt of the statements and documentary proof quantifying the damages caused by the animal, refer the dispute in terms of the procedure prescribed by the relevant authority to the municipal courts, any other competent court or traditional authority, to decide on the matter.
- (2) The municipality or a traditional authority may deal with disputes relating to the impounding of an animal by using alternative dispute resolution mechanisms.

Care of impounded animals

6. (1) An impounded male animal must be kept apart from female animals.
- (2) Every pound keeper and every person who impounds an animal must—
 - (a) daily, feed the animal with sufficient nutritious food, water and provide shelter for the duration of the impoundment; and
 - (b) handle and manage the animal according to accepted standards of animal welfare and relevant legislation.
- (3) The owner of a pound or the pound keeper is liable to the owner of an impounded animal for loss, damage or injury suffered by the animal as a result of negligence by the owner of the pound or the pound keeper.

- (4) If an impounded animal is dangerous, vicious or in the opinion of the pound keeper is suffering owing to a serious and incurable disablement, disease or injury, the pound keeper must submit a report in writing to the nearest veterinarian, animal health technician or such other duly qualified person, as may be prescribed, who must make a decision regarding such animal.
- (5) If in the opinion of the veterinarian, animal health technician or such other duly qualified person, it is desirable to dispose of the animal, he or she must give instructions with regard to the humane killing and disposal of such animal and the pound keeper must notify the owner of the animal thereof.

CHAPTER 3

REGISTRATION, ESTABLISHMENT AND ADMINISTRATION OF POUNDS

Functions of Minister

7. (1) The Minister must prescribe minimum national norms and standards for—
 - (a) the functioning of pounds;
 - (b) guidelines for the effective monitoring and control of animals found trespassing;
 - (c) the registration, establishment and administration of pounds;
 - (d) promoting a culture of integrity, ethics, good conduct and anti-corruption in the pounds industry;
 - (e) transformation, reform, innovation and any other matter to improve the effectiveness and efficiency of the pounds and its service delivery to the public; and

- (g) the maintenance of essential national standards.
- (2) The Minister may delegate any of his or her powers in terms of this Act to the Registrar or any officer in the Public Service, excluding the power to make regulations and the power to appoint the Registrar.

Appointment of Registrar

- 8. (1) The Minister must subject to the Public Service Act, 1994 (Proclamation No.1 03 of 1994)—
 - (a) appoint a person with suitable qualifications and experience in veterinary science and public affairs to be the Registrar for a term of five years; and
 - (b) on such conditions as she or he may determine, appoint such number of employees or receive on secondment such number of persons as are necessary to enable the Registrar to perform its functions.
- (2) Structures for remuneration, allowances, subsidies and other benefits for employees contemplated in subsection (1) must be in accordance with the guidelines issued by the Minister responsible for public service and administration.

Functions and duties of Registrar

- 9. (1) The Registrar is responsible for the—
 - (a) co-ordination and management of the national norms and standards to facilitate the effective implementation of this Act; and
 - (b) issuing of registration licenses for pounds.

- (2) The Registrar must publish the requirements for the application and issuing of a license for the registration of a pound as prescribed.
- (3) After considering an application for the registration of a pound, the Registrar may issue a registration license for the pound.
- (4) The Registrar must keep a record of all registered pounds in the Republic.
- (5) The Registrar has the power to inspect any pound and may delegate the power to inspect, in order to ensure compliance with this Act.
- (6) The Registrar must advise the Minister on—
 - (a) the determination of national norms and standards regarding any matter relating to pounds that should apply throughout the Republic;
 - (b) the effectiveness of the implementation of policies; and
 - (c) any aspect of pounds at the request of the Minister;
- (7) The Registrar must annually submit to the Minister—
 - (a) a report of his or her activities;
 - (b) a report on the performance of his or her functions, including the implementation of the national norms and standards for the impounding of animals; (e) a report on an assessment of the extent to which the objects of this Act have been achieved;
 - (d) an audited balance sheet of the Trust; and
 - (e) an audited statement of income of the Trust.
- (8) The Registrar may exercise the powers, and must perform the functions and carry out the duties conferred on, assigned to or imposed upon him or her by the Minister or under this Act, subject to the control and directions of the Minister.

- (9) The Registrar may delegate the power or duty referred to in subsections (2); (3); (4); (5) and (8), in writing to an officer who has the appropriate qualification.

Appointment of pound keepers

10. The owner of a pound must—
- (a) ensure that there is a pound keeper on duty to manage the pound and perform the duties of a pound keeper in terms of this Act;
 - (b) ensure that the pound keeper is a fit and proper person to manage the pound in terms of this Act; and
 - (c) notify the Registrar of the appointment of the pound keeper in the prescribed manner.

Functions and duties of pound keepers

11. (1) A pound keeper must at all reasonable times accept an animal brought for impounding, including a stray and trespassing animal which is delivered to the pound or reported to the pound keeper.
- (2) A pound keeper must keep a proper record of every animal impounded which must include the details of the location where the animal was found, identification mark, mark, contact details of the person who impounded the animal, the time and date the animal was found and impounded.
- (3) Where an impounded animal has caused damage to property, the pound keeper must record the occurrence and the extent of the damage caused by the animal.

- (4) A pound keeper must keep a pound book as prescribed to record all information required in terms of this Act.
 - (5) A pound keeper must submit a report to the Registrar, the relevant municipality and the traditional authority in the area, if any, detailing the number of animals impounded annually, mechanisms utilised to release and dispose of impounded animals, damage caused by any impounded animal and a financial statement detailing the proceeds of the sale of impounded animals and the amounts paid to the Trust, as prescribed.
 - (6) The pound keeper may perform any function conferred on him or her in terms of this Act Registration of Pounds
12. (1) A person who intends to establish a pound must apply in the prescribed manner to the Registrar.
- (2) The Registrar must within 90 days of receipt of an application contemplated in subsection (1) and any other information at his or her disposal relating to the application, if any—
- (a) approve an application for registration and issue a registration license;
 - (b) approve an application for registration and issue a registration license subject to conditions determined by the Registrar; or
 - (c) reject an application and provide written reasons for the rejection of the application.
- (3) A person may not operate a pound unless the pound is registered and complies with the essential national and minimum standards as contemplated in this Act.

- (4) The Registrar may at any time revoke a license after due consideration of the circumstances and consultation with the owner of the pound, and must notify the owner of the pound in writing with reasons for such decision.

Establishment of pounds

13. (1) A pound may, subject to subsection (3), be established by—
- (a) a municipality within its area of jurisdiction;
 - (b) a municipal entity;
 - (c) a person legally competent to operate a business activity;
 - (d) a traditional authority; or
 - (e) a municipality within the jurisdiction of another municipality, subject to a written agreement with the other municipality.
- (2) A person may not establish or manage a pound unless such pound has been issued with the registration license contemplated in section 12.
- (3) The Registrar must publish a notice of the registration of the pound in the Gazette as well as conditions imposed, if any.

Objection to registration, establishment of pound and review of registration conditions

14. (1) (a) A person who applies for the registration of a pound in terms of this Act may appeal to the Minister in the prescribed manner within 60 days of the date that the Registrar's decision was given, if that person is aggrieved by the decision of the Registrar.

- (b) The Minister must within 60 days of the date of the application of appeal, confirm, set aside or vary the decision of the Registrar and must notify the applicant in writing of the outcome of the appeal.
 - (c) A decision by the Minister is subject to judicial review.
- (2) A person aggrieved by the establishment of a pound or a registration condition in terms of section 12 may object in the prescribed manner, to the Registrar in writing to have the application or condition reviewed.
- (3) The Registrar, after considering the reasons furnished in terms of this section—
- (a) must notify the applicant and the objector in writing of his or her decision and the reasons for such decision;
 - (b) may suspend the licence in question for such period he or she may determine; or
 - (c) may revoke the licence in question.

Transfer of ownership and closure of pound

15. (1) When ownership of a pound is transferred, the
- (a) owner of the pound must notify the Registrar in the prescribed manner of the transfer of ownership of the pound;
 - (b) Registrar must record the transfer of ownership of the pound; and
 - (c) new owner of the pound must apply for the registration of the pound in terms of section 12.
- (2) If the owner of a pound no longer wishes to operate the pound, he or she must notify the Registrar in the prescribed manner and the Registrar must revoke the license of the pound.

- (3) If a pound ceases to operate, the pound keeper and the owner of the pound must notify the Registrar.
- (4) If the Registrar has reasonable cause to believe that a pound has ceased to operate, he or she may revoke the registration license of the pound after due consideration of the circumstances and consultation with the owner of the pound, and must notify the owner of the pound in writing with reasons for such decision.

Notice to owner of animal

16. If the owner of the impounded animal is known, the pound keeper must notify the owner in writing within 48 hours of the impoundment of the animal.

Notice to municipal manager and traditional authority

17. When an animal is impounded the pound keeper must within 24 hours of the impoundment of the animal, notify the municipal manager and the traditional authority in the prescribed manner, of—
 - (a) the date and place of such impoundment; and
 - (b) the number of animals, breed, sex, colour, age, identification mark; mark, if any, and distinguishing features of the impounded animals.

Duties of municipal manager

18. (1) On receiving the notice contemplated in section 17, the municipal manager must register the notice and cause such notice to be published on the notice board at the municipality for 10 days, unless the animal is claimed sooner by the owner.
- (2) The municipal manager must notify other pounds and organised communities within its municipal area of the notice contemplated in section 17(1).

Publication of notice in newspaper

19. If an animal or animals impounded at the same time exceeds the fair market value of R10 000.00, the pound keeper must publish a copy of the notice in a newspaper published in the area in which the impounded animal was found, or if there is no such newspaper then in any newspaper circulating in the area.

Restoration of animal and recovery of expenses

20. (1) A person who alleges and proves that he or she is the owner of the animal must submit a written affidavit as prescribed, to the pound keeper requesting that the animal be returned.
- (2) If the pound keeper is satisfied that the circumstances under which the animal is found justifies the return of the animal to the owner, the pound keeper must return the animal to the owner.

- (3) A pound keeper who provides an animal with food, water and shelter may recover the following expenses from the owner of the animal—
- (a) veterinary fees;
 - (b) fees of the pound keeper as prescribed; and
 - (c) other expenses as prescribed by the Minister.

Procedure and notice of sale

21. (1) If the animal has not been claimed by its owner or if the owner of the animal is unknown, the pound keeper must within 5 days of the publication of the notice contemplated in section 18, apply to the Court in terms of the procedure prescribed by the Court for an order to sell the animal on public auction.
- (2) After the Court grants the order contemplated in subsection (1), the pound keeper must publish the prescribed notice of sale of the animal.
- (3) The notice of sale must be displayed for 5 days in three public places in the municipality and must specify the time and place at which the animal will be publicly sold.
- (4) If the animal has not been claimed by the owner or someone on behalf of the owner after 5 days of the publication of the notice of sale, the pound keeper can proceed to dispose of the animal by way of public auction.
- (5) The animal must be sold to the highest bidder at the time and place mentioned in the notices.
- (6) If the owner of the animal claims the animal after 5 days of the notice of sale and before the animal is auctioned, the owner of the animal will be liable for the amount—

- (a) claimed for damages caused by the animal to the property of the person who impounded the animal;
 - (b) for veterinary fee;
 - (c) for the service fee of the pound keeper as prescribed;
 - (d) for the publication of the notice of sale contemplated in section 19; and
 - (e) for any other expense as prescribed by the Minister.
- (7) The owner of the animal is entitled to the remittance of the net proceeds of sale contemplated in this section by application in the prescribed manner.

National Animal Pounds Trust

22. (1) The Registrar must establish and administer a Trust which is called the National Animal Pound Trust and must—
- (a) open a bank account in the name of the National Animal Pound Trust with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
 - (b) deposit therein all money received in terms of section 21 (7).
- (2) Any money not claimed from the pound keeper in terms of section 21 (7), must be paid in the prescribed manner into the National Animal Pounds Trust within 5 days of the date of the sale of the impounded animal.
- (3) If the owner of an animal fails to claim the remittance of the net proceeds of sale contemplated in section 21 (7), within 5 days of the date of sale, he or she must lodge a claim with the Registrar.

- (4) Any money in the Trust which is unclaimed by the person entitled thereto for a period of 10 years as from the date upon which such person became entitled to claim the said money, must be paid into the National Revenue Fund referred to in section 213 of the Constitution, 1996 (Act No. 108 of 1996).

Responsibility of municipalities

23. A municipality is responsible for—

- (a) promoting compliance with the national norms and standards for the impounding of animals;
- (b) providing law enforcement measures to ensure compliance with this Act;
- (c) regularly reporting and providing information to the Registrar on matters relating to pounds;
- (d) preparing and implementing relevant plans and budgets;
- (e) executing its function in accordance with the national norms and standards for pounds;
- (f) progressively providing pounding services at a minimum cost to poor and rural communities within its available resources; and
- (g) ensuring sustainable pounding services through the effective and efficient management and adherence to the national norms and standards contemplated in this Act.

CHAPTER 4

GENERAL PROVISIONS

Offences and penalties

24. (1) The owner of an animal is guilty of an offence if he or she fails to exercise control over his or her animal and on conviction is liable to a fine or to imprisonment for a period not exceeding six months.
- (2) A pound keeper or person who impounds an animal and neglects to provide the animal with sufficient food, water and shelter is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.
- (3) Any person who—
- (a) contravenes any provision of this Act;
 - (b) unlawfully removes or sets free an impounded animal;
 - (c) impounds or detains for impoundment an animal contrary to any provision of this Act;
 - (d) resists, hinders or obstructs any owner, pound keeper, the Registrar or any other person in the exercise of his or her powers or the performance of his or her duties and functions in terms of this Act;
 - (e) resists, hinders or obstructs any person detaining, impounding or seizing an animal in terms of any provision of this Act or delivering or driving an animal to any pound; or

- (f) with intent to mislead, furnishes false information or particulars to any pound keeper, the Registrar, traditional authority or municipality, is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.
- (4) A pound keeper who—
- (a) contravenes any provision of this Act;
 - (b) intentionally makes a false entry in the pound book;
 - (c) fraudulently destroys or erases any entry previously made in the pound book;
 - (d) willfully delivers to any person a false copy or extract from the pound book; or
 - (e) manipulates the procedure or prices, or any other aspect of, any pound sale for reasons of financial or other benefit to himself or herself or any other person, is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Annual Report

25. A pound keeper must, on or before the 15th day of April in every year, file with the Registrar a statement for the year ending on the 31st of March indicating—
- (a) the number of animals impounded;
 - (b) the number of animals sold and the amounts received;
 - (c) the sum of fees received by the pound keeper;

- (d) the damages paid by any party;
- (e) all disbursements and to whom such disbursements were paid;
- (f) all receipts and expenditures in connection therewith; and
- (g) any other matter prescribed by the Minister.

Regulations

26. (1) The Minister may make regulations regarding—
- (a) any matter which in terms of this Act is required to be prescribed;
 - (b) the records to be kept and reports to be submitted by pound keepers;
 - (c) any other matter which he or she considers necessary or expedient to prescribe in order to achieve or promote the objects of this Act;
 - (d) tariffs for fees payable in terms of this Act;
 - (e) the registration application and requirements for the establishment of animal impounding facilities;
 - (f) the manner in which an impounded animal may be disposed;
 - (g) the mechanism to deal with any grievance or complaint by an owner of an animal in relation to impounded animals; and
 - (h) the timeframes and manner for submitting reports.
- (2) Regulations made in terms of subsection (1) must be published in the Gazette.

Short title and commencement

27. This Act is called the National Animal Pounds Act, 2010, and comes into operation on a date determined by the President by proclamation in the Gazette.