

The Cattle-Trespass (Bombay Extension and Amendment) Act, 1959

MAHARASHTRA

India

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Act 13 of 1959

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The Cattle-Trespass (Bombay Extension and Amendment) Act, 1959 Bombay Act No. 13 of 1959 [Dated 14th March, 1959] For Statement of Objects and Reasons, see Bombay Government Gazette, 1958; Part 5, pages 713-714. An Act to provide for uniformity in the law relating to cattle-trespass in the State of Bombay. Whereas the Cattle-trespass Act, 1871, extends to the whole of India except the presidency towns and the territories which, immediately before the 1st November, 1956, were comprised in Part B States; And Whereas in the Saurashtra area of the State of Bombay there exists the Cattle-trespass Act, 1871, as modified and applied to that area by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948; And Whereas in the Hyderabad area of the State there exists the Hyderabad Cattle-trespass Act; And Whereas it is expedient to provide for uniformity in the law relating to cattle-trespass in the State of Bombay and for that purpose to extend the Cattle-trespass Act, 1871, as in force in the area of the pre-Reorganisation State of Bombay excluding the transferred territories, to the Saurashtra and Hyderabad areas of the State; and to extend the Cattle-trespass (Bombay Amendment) Act, 1931, and the Cattle-trespass and Bombay District Police (Amendment) Act, 1950 (in so far as it amends the Cattle-trespass Act, 1871 in its application to the area of the pre-Reorganisation State of Bombay excluding the transferred territories) to the Vidarbha region and Kutch area of the State; and to amend the Cattle-trespass Act, 1871. in its application to the Vidarbha region and Kutch area of the State correspondingly; And Whereas it is expedient further to amend the Cattle-trespass Act, 1871. in its application to the State of Bombay for the purposes hereinafter appearing; It is hereby enacted in the Tenth Year of the Republic of India as follows:-

1. Short title.

- This Act may be called the Cattle-trespass (Bombay Extension and Amendment) Act, 1959.

2. Extension of Act I of 1871 to Saurashtra and Hyderabad areas and uniformity of law relating to cattle-trespass throughout State.

- For the purpose of providing for uniformity in the law relating to cattle-trespass in the State of Bombay, the Cattle-trespass Act, 1871, as in force in the area of the pre-Reorganisation State of Bombay (excluding the transferred territories) immediately before the commencement of this Act is hereby extended to the Saurashtra and Hyderabad areas of the State, and shall be so in force throughout the State of Bombay; and accordingly -(a)all amendments made by any law in the provisions of the Cattle-trespass Act, 1871 (whether by way of modifications thereto, substitutions thereof, deletions there from, insertions therein, additions thereto or otherwise) in the application of the said Act to the Vidarbha region and Kutch area of the State of Bombay, and in particular the amendments made by the Acts specified in the First Schedule to this Act, shall cease to have effect and shall stand repealed; and,(b)all amendments made in the Cattle-trespass Act, 1871, in its application to the area of the pre-Reorganisation State of Bombay (excluding the transferred territories) and in force at the commencement of this Act, and in particular the amendments made by the Acts specified in the Second Schedule to this Act shall be deemed to be extended to, and shall be in force in, the Vidarbha region and Kutch area of the State and the relevant provisions of the Cattle-trespass Act, 1871, as in force in the said region and area shall be deemed to be amended (whether by way of modification thereto, substitution thereof, deletion therefrom, insertion therein, addition thereto or otherwise) accordingly.

3. Amendment of section 1 of Act I of 1871.

- In section 1 of the Cattle-trespass Act, 1871, in its application to the State of Bombay (hereinafter referred to as the "principal Act"), to sub-section (2) the following proviso shall be added, namely :-"Provided that, on the commencement of the Cattle-trespass (Bombay Extension and Amendment) Act, 1959, it shall extend to those areas in which the Hyderabad Cattle Trespass Act, or as the case may be the Cattle-trespass Act, 1871, as modified and applied to the Saurashtra area of the State of Bombay was in force immediately before such commencement."

4. Amendment of section 10 of Act I of 1871.

- In the principal Act, in section 10, after the words and figures "the Bombay Village Panchayats Act, 1933," the words "or any corresponding law in force in any part of the State of Bombay" shall be inserted.

5. Insertion of new sections 12A and 12B in Act I of 1871.

- In the principal Act, after section 12, the following new sections shall be inserted, namely :-"12A. Security in respect of impounded cattle. - (1) In any local area to which the State Government may, by notification in the Official Gazette, apply this section, every pound-keeper shall, before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the form to be prescribed by the State Government, a declaration regarding the ownership of such cattle and

to deposit by way of security such sum as the State Government may, by rules, prescribe. Different scales may be prescribed for different areas or different classes of cattle.(2)If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be directed by the State Government by rules made in this behalf, shall stand forfeited to the State Government. If cattle are not impounded as aforesaid, the amount of security deposit shall, on an application made by or on behalf of the depositor, be refunded to him on the expiry of that period.(3)On every occasion on which the release of the cattle impounded under this Act is claimed, the owner of the cattle shall deposit a fresh security.

12B. Removal of cattle to specified places. - (1) If in any local area to which the State Government may, by notification in the Official Gazette, apply this section, a Mamlatdar, Tahsildar, Naib-Tahsildar or Mahalkari is satisfied -

(i)that the grazing land set apart for the use of cattle of one or more villages in the taluka, tahsil or mahal under his jurisdiction is insufficient for the cattle belonging to the permanent residents of such village or villages; or(ii)that the crops or grass standing on any agricultural land or grazing land so set apart are likely to be damaged by cattle belonging to persons who are not residents of such village or villages and who own more than twenty head of cattle, he may -(a)in any case referred to in clause (i) direct any such resident owner, by special or general order, to remove or cause to be removed all or any dry or useless cattle belonging to him to such place or places within the State and within such period as may be specified in the order, and(b)in any case referred to in clause (ii) direct any such non-resident owner, by special or general order, to remove or cause to be removed all or any of his cattle to such place or places within the State and within such period as may be specified in the order.(2)If the owner of the cattle fails to remove the cattle as directed under sub-section (1), the Mamlatdar, Tahsildar Naib-Tahsildar or Mahalkari, as the case may be, may direct a police officer not below the rank of a head constable to remove or cause to be removed such cattle to the place or places specified in the order.(3)If the Mamlatdar, Naib-Tahsildar or Mahalkari is satisfied that the order issued by him under sub-section (1) is contravened by any owner or keeper of cattle, he may impose a fine not exceeding one thousand rupees. Any fine so imposed may, on failure of such owner or keeper to pay the same within the specified time, be recovered by sale of all or any of the cattle ordered to be removed under sub-section (1)."

6. Amendment of section 13 of Act I of 1871.

- In the principal Act, to the first paragraph of section 13, the following shall be added, namely :-"and on depositing the amount of security prescribed under section 12A."

7. Amendment of section 15 of Act I of 1871.

- In the principal Act, section 15 shall be renumbered as sub-section (1) of that section, and after sub-section (1) as so renumbered, the following new sub-section shall be inserted, namely :-"(2) If on any complaint referred to in sub-section (1) the seizure is declared to be lawful, or if the owner or

his agent fails to make such complaint within a period of four weeks from the date of delivery of the cattle to him, the pound-keeper shall require such owner or agent to make a declaration and to deposit the amount of security as required by section 12A. If the owner or his agent fails to make such declaration or to deposit such amount, the cattle delivered to him under subsection (1) shall be seized again for the purposes of section 16."

8. Amendment of section 16 of Act I of 1871.

- In section 16 of the principal Act, for the first and second paragraphs the following new paragraphs shall be substituted, namely "If the owner or his agent appears and refuses or omits to pay the said fines and expenses and to deposit the said amount of security or (in the case mentioned in section 15) to deposit the said fines, expenses and amount of security or to make a declaration as required by section 12A, the cattle or as many of them as may be necessary, shall be sold by public auction by such officer, at such place and time, and subject to such conditions, as are referred to in section 14, or disposed of in accordance with the provisions therein. The fines leviable and the expenses of feeding and watering together with the expenses of sale, if any, and the amount of security prescribed under section 12A shall be deducted from the proceeds of the sale."

9. Amendment of section 17 of Act I of 1871.

- In section 17 of the Principal Act, after the second paragraph, the following new paragraph shall be inserted namely :- "The amount of security required under section 12A shall be deposited with the pound-keeper."

10. Substitution of new section 29 for existing section 29 of Act I of 1871.

- In the principal Act, for the existing section 29, the following new section shall be substituted, namely :- "29. Saving of right to sue for compensation. - Nothing herein contained prohibits any person whose property, crops or other produce of land have been damaged or to whom any hurt or injury or obstruction has been caused by trespass of cattle from suing for compensation in any competent Court."

11. Insertion of new section 32 after section 31 of Act I of 1871.

- After section 31 of the principal Act, the following new section shall be inserted, namely :- "32. Power to make rules. - (1) The State Government may, by notification in the Official Gazette, make rules for carrying into effect the purposes of this Act. (2) In particular but without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely :- (i) the form of, and the procedure, relating to, the declaration, and the scales of deposits to be made, under section 12A; (ii) the procedure regulating the making of security deposits, custody and refund thereof; (iii) the manner in which any cattle may be disposed of; (iv) any other matter which is to be or may be prescribed. (3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette. (4) All rules made under this section shall be

laid before each House of the Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid, or the session immediately following."

12. Repeal and saving.

- The Cattle-trespass Act, 1871, as modified and applied to the Saurashtra area of the State of Bombay by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948, and the Hyderabad Cattle Trespass Act, are hereby repealed :Provided that, such repeal shall not affect,-(a)the previous operation of any law so repealed, or anything duly done or suffered thereunder;(b)any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed;(c)any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed;(d)any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture and punishment may be imposed, as if this Act had not been passed :Provided further that, subject to the preceding proviso, anything done or action taken (including any rules made, notifications, orders or notices issued, pounds established, rates of charges for feeding impounded cattle and scales of fine fixed, appointments, deposits and complaints made and penalties imposed) under any such law shall in so far as it is not inconsistent with the provisions of the principal Act, be deemed to have been done or taken under the corresponding provisions of the principal Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under the principal Act.First Schedule[See section 2(a)]

1. The Cattle-trespass (Central Provinces and Berar Amendment) Act, 1935 (C. P. and Berar Act 12 of 1935).

2. The Cattle-trespass (Central Provinces and Berar Amendment) Act, 1937 (C. P. and Berar Act 22 of 1937).

3. The Central Provinces and Berar Cattle-trespass (Amendment) Act, 1949 (C. P. and Berar Act 27 of 1949).

Second Schedule[See section 2(b)]

1. The Cattle-trespass (Bombay Amendment) Act, 1931 (Bombay 5 of 1931).

2. The Cattle-trespass and Bombay District Police (Amendment) Act, 1950 (Bombay 34 of 1950) (except section 3).