



GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA

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No. 307

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General Notice

MUNICIPALITY OF MARIENTAL

No. 176

1991

POUND REGULATIONS

The council of the Municipality of Mariental has under section 242 of the Municipal Ordinance, 1963 (Ordinance 13 of 1963) made the regulations set out in the Schedule.

The said regulations have been approved by the President under section 243 of the said Municipal Ordinance, 1963.

SCHEDULE

1. In these regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Ordinance, 1963 (Ordinance 13 of 1963) shall bear that meaning and -

“animal” means any animal belonging to any one of the following types of animals, namely, horses, donkeys, mules, cattle, sheep, goats or pigs;

“Council” means the Council of the Municipality of Mariental;

“municipal area” means the municipal area of Mariental;

“owner” includes, in relation to an animal, any person in possession of or charged with the care, custody or control of that animal; and

“property” means any erf or premises situated in the municipal area of Mariental.

2. The Council shall at such place or places within the municipal area which it deems suitable, provide and maintain a pound which is strong, secure and large enough to contain and safely keep the impounded animals and which has such kraals and enclosures as may be necessary for the isolation of any animal which must be kept in isolation in terms of these regulations.

3. For each pound provided the Council shall appoint a poundmaster who shall be responsible for the management of such pound in accordance with and subject to the provisions of these regulations.

4. (1) Any member of the Namibian Police Force or employee of the Council who finds any animal trespassing on any property or which is at large, shall take or cause such animal to be taken to the pound, and any owner or occupier of property who finds any animal trespassing on his or her property, may take or cause such animal to be taken to the pound.

(2) (a) The Council may, notwithstanding any provisions to the contrary in these regulations, at any time by resolution determine that no person shall be entitled to impound any animal which has trespassed on his or her property if such property is not adequately fenced: Provided that such resolution shall only come into effect after the Council has published it once by notice in the *Gazette* and once a week for 4 consecutive weeks in a newspaper circulating in the municipal area, and the date on which the Council's resolution is to come into effect is also mentioned in such notice.

(b) Any property which is not enclosed with a fence of at least 1,25 metres high and, if enclosed with a wire fence which does not consist of at least 5 horizontal strands with gates that can be closed properly, shall not, for the purposes of paragraph (a), be deemed to be adequately fenced.

5. (1) Any person who has caught an animal with the intention to have it impounded shall deliver such animal to the pound within 24 hours after it was caught.

(2) No person shall intentionally detain any trespassing animal which has been caught on his or her or any other property, except for the purpose referred to in subregulation (1).

(3) Any person who contravenes the provisions of subregulation (2) or uses, abuses, ill-treats or overdrives any animal detained by him or her or allows any person to do so, shall be guilty of an offence.

6. Any person who by threat of violence or otherwise frees or attempts to free any animal from the person who is in control thereof whilst it is being taken to the pound in accordance with these regulations or frees or attempts to free any animal after it has been impounded in accordance with these regulations by the poundmaster, shall be guilty of an offence.

7. Any person who causes any animal to be impounded contrary to the provisions of these regulations shall be guilty of an offence and shall, in addition to the penalties prescribed in regulation 40, be liable for all damages and shall compensate the owner of such animal for any loss and costs occasioned by such impoundage.

8. (1) The poundmaster shall, subject to such resolution as the Council may pass in terms of regulation 4(2)(a), and subject to subregulation (2), receive all animals delivered at the pound during the hours of business thereof and detain them until they are released or sold in accordance with these regulations.

(2) (a) If the poundmaster is of the opinion that an animal, when it is impounded, is so diseased or injured or is in such poor physical condition that it is unlikely that such animal, if it were sold, would realise enough money to cover its pound fees as well as the expenses in respect of the sale thereof, he or she shall summon the officer in command of the local police station or two adult persons whom he or she considers to be reliable and of sound judgement, to examine that animal.

(b) If such officer or persons certify that the condition of the said animal is as described in paragraph (a) the poundmaster may if it is not released within 3 days after its impoundage, destroy that animal in a humane as possible way.

9. The daily hours of business of each pound shall be from 07:00 till 15:30, Saturdays, Sundays and Public Holidays excluded.

10. (1) The poundmaster shall keep a pound book in which he or she shall record the following particulars in respect of every animal impounded:

- (a) The type of animal and its estimated age;
- (b) the distinguishing colours and marks it bears;
- (c) the name and address of the person by whom it was impounded;
- (d) the address or description of the property on which the animal trespassed or was;
- (e) the name and address, if known, of the owner or suspected owner of the animal;
- (f) if the animal was sold, the name and address of the purchaser and the sum realised by such sale;

- (g) the dates on which the animal was impounded and released or sold, respectively;
- (h) all fees and expenses accumulated in respect of the animal in terms of these regulations; and
- (i) all claims for damages filed with him or her and if paid, the date and amount of such payment.

(2) The poundmaster or, in his or her absence, the person in charge of the pound, shall issue to the person delivering an animal for impoundage, a certificate in the form contained in Schedule A.

11. (1) (a) The poundmaster shall pay to the person who delivers or causes to deliver an animal to the pound, the driving fees prescribed in Schedule B: Provided that if such person is a member of the Namibian Police Force or an employee of the Council, such fees shall be paid to the Council.

(b) No driving fees shall be payable for the return journey of the person who has driven the animal to the pound.

(c) No additional driving fees shall be payable where the animal has been driven to the pound by more than one person.

(d) The poundmaster shall obtain a receipt from the person to whom he or she has paid driving fees.

(2) (a) The driving fees that have been paid by the poundmaster in terms of subregulation (1), together with such other moneys as may be due under these regulations, shall be recoverable from the owner of the animal concerned.

(b) If animals belonging to different owners have been driven to the pound in one group, a pro rata portion of the driving fees shall be payable by each owner.

(3) (a) If at any time, while an animal is being driven to the pound, the owner of such animal or any person on his or her behalf, tenders to pay to the person driving that animal the amounts payable in respect of driving fees and damages, if any, such owner shall against payment of the amounts concerned be entitled to the immediate release of the animal.

(b) Any person who refuses to release an animal under the circumstances referred to in paragraph (a) shall be guilty of an offence.

12. (1) If the name and address of the owner of an impounded animal is known to him or her, the poundmaster shall immediately by letter, delivered personally or sent by registered post, give notice to such owner of the fact that his or her animal has been impounded, and he or she shall also in such letter state the amount which, as at the date of the notice, is payable for the release of such animal, as well as the further fees that will thereafter be levied daily in respect of the animal.

(2) Whenever a stallion or bull is impounded, the poundmaster shall immediately, unless the name and address of the owner is known to him or her, cause an advertisement, setting forth the following information, to be published in a newspaper circulating in the municipal area -

- (a) a short description of the animal;
- (b) the estimated value of the animal;
- (c) the date on which the animal was impounded;
- (d) the name and address of the person by whom it was impounded; and
- (e) that the animal will be sold if it is not redeemed by its owner within 30 days from the date of publication of the advertisement.

(3) The costs incurred in respect of the publication of an advertisement in terms of subregulation (2) shall be recoverable from the owner of the animal concerned or, if it is sold, from the proceeds thereof.

13. (1) The owner or occupier on whose property an animal has trespassed, shall be entitled to claim compensation in accordance with the provisions of these regulations for any damage to the property concerned caused by such animal.

(2) The Council shall be entitled to claim compensation in accordance with the provisions of these regulations for any damage to the property concerned caused by such animal.

(3) The owner of any animal which has caused the damage referred to in subregulation (1) or (2), shall, subject to the provisions of these regulations, be liable to compensate the owner or occupier of the property concerned, or the Council, as the case may be, for such damages: Provided that if the owner of the animal concerned is unknown, or cannot be traced, such damages shall be paid from the nett proceeds in accordance with regulation 28(1)(b) if the animal is sold.

14. (1) The owner or occupier of property who wishes to claim damages as contemplated in regulation 13(1) shall, when delivering the animal to the pound, hand to the poundmaster a notice wherein he or she declares his or her intention to lodge a claim.

(2) The poundmaster shall not, after the receipt of a notice in terms of subregulation (1), release the animal to which such notice relates, before the expiry of a period of 24 hours after the animal was impounded: Provided that if the written memorandum referred to in regulation 15(1) has been delivered to him or her in terms of regulation 15(3), he or she shall not thereafter release the animal concerned, except in accordance with the provisions of regulation 19 or 20.

15. (1) The owner or occupier of property who wishes to claim damages as contemplated in regulation 13(1), or his or her representative, shall, in co-operation with two persons with no interest in the matter, inspect the property concerned and prepare a written memorandum, wherein -

- (a) the nature and extent of the damage which has allegedly been caused by the animal; and
- (b) the amount assessed by them as compensation for the damage,

shall be fully set out.

- (2) (a) If the owner of the animal is known to him or her, the owner or occupier of the property shall give prior notice of the time and place of such inspection to such owner and afford him or her the opportunity to be present.
- (b) If at such inspection the owner of the animals admits liability for the damage, while he or she -
 - (i) accepts the amount assessed in terms of subregulation (1) as correct;
 - (ii) reaches an agreement with the owner or occupier of the property with regard to the amount thereof and pays it or;
 - (iii) arranges for the payment thereof with the owner or occupier of the property, those facts, with full particulars, shall also be recorded in the written memorandum and signed by both parties.
- (c) If the damages are paid directly to the owner or occupier of the property in terms of paragraph (b), he or she shall issue a receipt in respect of such payment to the owner of the animal.

(3) The owner or occupier of the property shall, within 24 hours after the animal concerned was impounded, deliver the written memorandum prepared in accordance with subregulation (1) to the poundmaster: Provided that if such written memorandum is delivered to the poundmaster after expiry of the aforesaid period of 24 hours and the animal has not yet been released, the poundmaster shall be obliged to accept it.

(4) If the owner of the animal has not attended the inspection referred to in subregulation (1) and if his or her name and address is known to him or her, the poundmaster shall immediately upon receipt of the written memorandum, by letter, delivered to him or her personally or sent by registered post, give notice to the owner of the animal of the findings of the persons who held the inspection and give full particulars of the damages as determined by them.

16. The Council shall, if it wishes to claim damages as contemplated in regulation 13(2), first cause an inspection of the damaged property to be held by the poundmaster or any other authorised employee of the Council and two persons with no interest in the matter and the provisions of regulation 15 shall *mutatis mutandis* apply.

17. (1) The owner or occupier of the property, or the Council, as the case may be, shall pay each of the persons assisting with the inspection and preparation of the written memorandum in terms of regulation 15 or 16,

except the poundmaster or an employee of the Council, a fee of not less than R10,00 for their services.

(2) The amount paid in terms of subregulation (1) may be recovered as part of the damages in terms of these regulations.

18. Where a claim for damages by the owner or occupier of property is disputed by the owner of the animal in that such owner denies liability for any damages or admits liability but disputes the amount claimed, the poundmaster shall immediately by letter, delivered personally or sent by registered post, give notice to the owner or occupier of the property concerned of the fact that the owner of the animal is denying liability or is disputing the amount claimed, as the case may be.

19. The poundmaster shall not, subject to the provisions of any act and regulation 20, release any animal unless -

- (a) all fees due in terms of Schedule B and all other expenses which, in terms of these regulations, accrued in respect of such animal; and
- (b) the amount in respect of damages, if any,

have been paid or it is proved to the satisfaction of the poundmaster that the amount in respect of damages has been paid directly to the owner or occupier of the property, or that an acceptable arrangement for the payment thereof has been made.

20. If a claim for damages, whether instituted by the owner or occupier of property, or the Council, is disputed by the owner of the animal concerned, the poundmaster shall, notwithstanding the provisions of regulation 19, but on condition that the fees and expenses referred to in paragraph (a) of that regulation have been paid in full, release that animal if, pending settlement of such dispute, the owner thereof gives security to the satisfaction of the poundmaster for the payment of the amount claimed: Provided that if the poundmaster is of the opinion that the value of the animal to which such claim relates is less than the amount of the claim, he or she may fix the amount of surety which is in his or her opinion equal to the value of the animal concerned.

21. The poundmaster may, before he or she releases any animal, require that the person claiming such release prove by affidavit or otherwise to the satisfaction of the poundmaster, that he or she is the owner of the animal or has been authorised by the owner to claim its release.

22. Any stallion or bull that is not released within 30 days from the date of publication of the advertisement in terms of regulation 12(2), and any other animal not released within 7 days from the date of impoundage, shall be sold in accordance with the provisions of regulation 23 or 24, as the case may be.

23. (1) In the case of horses and cattle the poundmaster shall, after expiry of the relevant period referred to in regulation 22, by notice published once in the *Gazette* and once per week for 2 consecutive weeks in newspapers circulating in the municipal area, advertise that the animal concerned is to be sold by public auction.

(2) The notice referred to in subregulation (1), shall set forth the following information:

- (a) The place where, and the date and time when, the sale will be held;
- (b) a description of the animal to be sold; and
- (c) the date on which the animal was impounded and the name and address of the person by whom it was impounded.

(3) The poundmaster shall, not later than the date on which the notice referred to in subregulation (1) is published for the first time, whether in the *Gazette* or a newspaper, cause a copy of such notice to be affixed in a conspicuous place at the pound and the offices of the Council.

(4) The date of the sale shall not be less than 21 days after the date upon which the animal was impounded and not less than 7 days after the publication of the notice in the *Gazette* and the second publication in the newspaper in terms of subregulation (1).

24. (1) Any donkey, mule, sheep, goat or pig may, after the expiry of the period of 7 days referred to in regulation 22 and provided that the provisions of subregulation (2) have been complied with, be sold at the first morning market or by public auction held at a public place which is centrally situated in the municipal area.

(2) The poundmaster shall advertise such sale by affixing, not later than 4 days before the date of the sale a notice of sale containing all such information as required by regulation 23(2), on the notice board at the offices of the Council and at or as near as possible to the place where the sale is actually taking place.

(3) The poundmaster may, notwithstanding the provisions of regulation (1), sell any donkey, mule, sheep, goat or pig on a public auction held in terms of regulation 23, on condition it has been advertised as such in the notice of sale referred to in subregulation (2).

25. The poundmaster is obliged, notwithstanding the provisions of regulation 22, to release any animal at any time before it is sold in accordance with the provisions of regulation 23 or 24, if the owner thereof complies with the provisions of regulation 19 or 20.

26. (1) The poundmaster or any person designated by the Council for that purpose shall act as auctioneer at a sale taking place in terms of these regulations.

(2) At any sale in terms of these regulations all animals shall be sold individually, except that -

- (a) the offspring of any animal which is still dependent on that animal for its food, shall be sold together with that animal;
- (b) sheep or goats may be sold together in lots of not more than 10.

(3) The poundmaster shall not, whether personally or through an agent, purchase any animal which is being sold in terms of these regulations.

27. The Council is entitled to a commission of 5% on the gross proceeds of every animal which is sold in terms of these regulations.

28. (1) The proceeds from the sale of any animal in terms of these regulations, shall be applied -

- (a) for the payment of all fees owed to the Council in accordance with Schedule B and all other expenses in respect of that animal recoverable by the Council in terms of these regulations, and
- (b) thereafter, in settlement of any claim for damages instituted in terms of these regulations and in respect of which no dispute is existing between the owner of the animal and the claimant concerned.

(2) If two or more competing claims are to be considered for settlement in terms of subregulation (1)(b), any surplus that is available under the said paragraph, but which is insufficient to settle all the claims concerned in full, shall be distributed pro rata amongst the claimants.

(3) Any surplus that remains after the settlements referred to in subregulation (2), shall be deposited in the Council's bank account.

29. (1) If the notice of sale referred to in regulation 23 relates to more than one animal, the expenses incurred in connection with the publication of such notice shall be recovered, subject to the provisions of subregulation (2), in equal parts from the proceeds of each animal sold.

(2) If any animal to which a notice of sale relates, is released in terms of these regulations at any time before it is sold, the poundmaster shall recover, from the person redeeming the animal, an equal part of such costs which would have been recoverable in respect of that animal had it been sold.

30. (1) If at any time within 6 months after the sale of an animal in terms of these regulations, any person lays claim to the surplus, which the Council has a right to in terms of regulation 28(3), or any part thereof, and the Council is satisfied that -

- (a) the animal sold did belong to that person; or
- (b) that person is on any other ground entitled to it; and
- (c) no claim for damages of which notice has been given to the poundmaster in terms of these regulations, is pending,

the Council shall pay such amount to the person concerned.

(2) The right to claim payment of the surplus, or any portion thereof, from the Council under subregulation (1), shall prescribe, subject to the provisions of this regulation, after a period of 6 months from the date of the sale of the animal concerned: Provided that if the animal concerned, at the time of the sale thereof, has been the subject of a claim for damages in terms of these regulations and such claim was at that stage still disputed, such right shall prescribe after a period of 6 months from the date of the settlement of the claim or 3 years from the date of the sale of the animal, whichever is the earliest.

(3) The Council may refuse to pay out any money claimed in terms of this regulation, unless an agreement of settlement or a court order is submitted as proof that the person who claims the money is entitled thereto.

(4) The surplus concerned becomes the property of the Council upon prescription of the right to claim payment thereof in terms of this regulation.

31. Ownership in any animal sold in terms of these regulations shall pass on to the purchaser.

32. All horses, donkeys, mules and cattle sold in terms of these regulations shall be branded with the Council's registered brand before delivery to the purchaser.

33. (1) The poundmaster shall take proper care of all impounded animals and ensure that they are at all times provided with sufficient grazing or fodder and water.

(2) The poundmaster shall not use, harness or ill-treat any impounded animal or allow any other person to use, harness or ill-treat such animal: Provided that the poundmaster is entitled to milk any cow or she-goat.

(3) If any animal dies during its detention in the pound the poundmaster shall immediately notify the town clerk thereof and record such fact in the pound book with a proper description of the animal concerned.

(4) If the poundmaster fails to comply with any provision of this regulation he shall be guilty of an offence.

34. The poundmaster shall keep all stallions and bulls above the age of 2 years, and all he-goats and rams above the age of 6 months, in a separate camp or kraal, or keep them tied up or isolate them from the other animals in the pound in any other way.

35. (1) If any animal, when it is delivered to the pound, or any impounded animal, is visibly infected or becomes infected with a disease which is contagious or which is likely to be dangerous to human life or to other impounded animals, or if the poundmaster has reasonable grounds to believe that it is so infected, he or she shall immediately place that animal in a separate camp or kraal removed from the other impounded animals or in any other effective manner isolate such animal from the other animals in the pound.

(2) The poundmaster shall immediately after he or she has isolated an animal as required in subregulation (1), summon a veterinarian to examine that animal or if a veterinarian is not available, immediately notify the town clerk.

(3) The town clerk shall, when he or she receives the notice in terms of subregulation (2), immediately cause an investigation to be conducted into the condition of that animal, and he or she may give such instructions to the poundmaster as to its disposal as he or she may deem fit, including an instruction that the animal be destroyed.

(4) The poundmaster shall strictly carry out all instructions that are given to him or her by such veterinarian or the town clerk with regard to such animal.

36. All costs incurred by the Council in respect of the services of a veterinarian, or in connection with any treatment given to an impounded animal, shall be recoverable from the owner of that animal, or if it is sold under these regulations, from the proceeds.

37. If the poundmaster at any time finds that an impounded animal is so wild or vicious that its detention might be dangerous to other animals in the pound, he or she shall immediately notify the town clerk and the provisions of regulation 35(3) and (4) shall *mutatis mutandis* apply.

38. When any impounded animal dies or is destroyed in terms of these regulations, the poundmaster shall dispose of the carcass in such a manner as the Council directs.

39. (1) The Council shall levy the fees set out in Schedule B in respect of the services rendered in terms of these regulations.

(2) The Council shall recover the fees referred to in subregulation (1) and all other expenses prescribed in these regulations or incurred in terms thereof, from the owner of the animal in respect of which it is payable or, if the animal is sold, from the proceeds.

(3) If the proceeds from the sale of a particular animal are insufficient to cover the charges referred to in subregulations (1) and (2), the Council shall be entitled to recover the shortfall from the owner of such animal.

40. (1) Any person, except the poundmaster, who is convicted of an offence under these regulations, shall be liable -

- (a) on a first conviction, to a fine not exceeding R100,00;
- (b) on a second or subsequent conviction for the same offence, to a fine not exceeding R200,00 or imprisonment for a period not exceeding 3 months, or to both such fine and imprisonment;
- (c) in case of a continuing offence, if the commission of the crime continues after the conviction referred to in paragraph (a) or (b), to a further fine not exceeding R4,00 a day, for each day the offence continues.

(2) If the poundmaster is convicted of an offence under these regulations, he or she shall be liable to a fine not exceeding R20,00.

41. The Municipal Pound Regulations promulgated by Government Notice 108 of 1944 and all amendments thereof are hereby repealed in so far as it is applicable to the municipal area.

SCHEDULE A
MUNICIPALITY OF MARIENTAL
CERTIFICATE WITH DETAILS OF IMPOUNDED ANIMALS

Description of animals:

.....

.....

Number of animals:

Name and address of person who sent animals:

.....

.....

Place where animals were found:

.....

Name and address of person who delivers animals:

.....

.....

.....

**SIGNATURE OF PERSON
WHO DELIVERS ANIMALS**

.....

POUNDMASTER

.....

DATE

MARIENTAL:

SCHEDULE B

POUND FEES

1. Detention fees:	
(a) In respect of all animals except sheep and goats, per animal per day or part of a day	R5,00
(b) Per sheep or goat per day or part of a day	R2,00
2. Grazing fees:	
(a) In respect of all animals except sheep and goats, per animal per day or part of a day	R3,00
(b) Per sheep or goat per day or a part of a day	R0,75
3. Feeding fees:	
(a) In respect of all animals except sheep and goats, per animal per day or part of a day	R7,50
(b) Per sheep or goat per day or part of a day.....	R2,00
4. Driving fees:	
Per animal irrespective of the distance driven	R0,50
5. Fees for branding in terms of regulation 32:	
Per animal	R1,00
