

CONSOLIDATION OF HERD AND FENCING ACT
R.S.N.W.T. 1988,c.H-2

(Current to: December 14, 2012)

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2003,c.26,s 252

s.252 in force July 9, 2005: SI-001-2005

S.Nu. 2011,c.10,s.16

s.16 in force March 10, 2011

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the Revised Statutes of the Northwest Territories, 1988.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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HERD AND FENCING ACT

INTERPRETATION

Definitions

1. In this Act,

"animals" means horses, cattle, sheep, swine and goats; (*animaux*)

"cattle" includes bulls, cows, oxen, heifers, steers and calves; (*bétail*)

"horses" includes mares, geldings, stallions, colts, fillies, asses and mules; (*chevaux*)

"officer" means an officer appointed under subsection 13(1) or an officer by virtue of his or her office pursuant to subsection 13(2); (*agent*)

"owner" means a person owning an animal and includes an employee or agent of that person; (*propriétaire*)

"proprietor" means an owner or occupier of land under any tenure and includes an employee or agent of that person; (*propriétaire foncier*)

"run at large" means to be on premises other than those owned or occupied by the owner, without being under the control of the owner; (*divaguer*)

"stray" means an animal that is running at large. (*animal errant*)

S.Nu. 2011,c.10,s.16

ANIMALS

Running at large

2. (1) No owner shall permit an animal to run at large within
- (a) an area defined by the Minister under subsection (4); or
 - (b) the confines of an airport.

Specific prohibition

- (2) No owner of a stallion, bull, boar or ram shall permit it to run at large.

Animal with contagious disease

- (3) No owner of an animal suffering from a contagious disease shall permit it to run at large.

Defined areas

- (4) The Minister may define an area within which an animal is not permitted to run at large. S.Nu. 2011,c.10,s.16

Definition of "fence"

- 3.** In sections 4 to 7, "fence" means a substantial fence that is
- (a) in height not less than 1.2 m above the level of the ground;
 - (b) constructed of woven wire, barbed wire, rails, boards or slabs;
 - (c) of a size and structure that will suitably confine animals under normal circumstances; and
 - (d) fastened to posts not more than 5 m apart.

Prohibition

- 4.** No person shall leave open a gate of a fence or let down bars or otherwise make a gap in a fence, if this would permit an animal to run at large from the premises surrounded by the fence or a stray to enter the premises.

Duty of owner

- 5.** (1) The owner of an animal prohibited from running at large under section 2 shall keep the animal on premises that are enclosed by a fence.

Two or more owners

- (2) If two or more owners are required to confine animals on the same premises and the premises must be fenced, each owner shall erect his or her portion of the fence required to surround the premises or pay for the erection of his or her portion to the satisfaction of the other owners.

Portion of fence

- (3) The portion to be erected by each owner under subsection (2) shall bear the same ratio to the total area to be fenced as the number of animals to be kept by the owner bears to the total number of animals to be kept on the premises.

Dispute

- (4) Where a dispute arises under this section as to the portion of fence to be erected by each owner, the question may be referred to a justice of the peace whose decision is final.

Action for damages

- 6.** No proprietor may bring an action for damages caused to his or her property by animals unless the property owned or occupied by the proprietor is surrounded by a fence.

Liability of owner

- 7.** (1) The owner of an animal that breaks into or enters on premises that are enclosed by a fence is liable to compensate the proprietor of the premises for damages caused by the animal.

Action for recovery of damages

- (2) Where an owner of an animal refuses to pay damages under subsection (1), the proprietor may bring an action before a justice of the peace for the recovery of the damages that the justice of the peace considers fair and just.

Decision

(3) The decision of a justice of the peace under subsection (2) is final.

Fence surrounding crops

8. (1) A fence surrounding growing crops or crops in the process of being harvested must be situated at least 2 m from the crops.

Fence surrounding stacks

(2) A fence surrounding stacks of hay or grain must be situated at least 3 m from the stacks.

Strays

9. (1) Where a proprietor finds a stray on his or her premises, the proprietor may drive it off the premises and shall, within a reasonable time, notify the owner of the stray, if the owner is known to the proprietor, or an officer, if the owner is unknown to the proprietor.

Food and shelter

(2) Where a proprietor allows a stray to remain on his or her premises until it can be removed by the owner or by an officer, the proprietor shall provide it with the food and shelter that the proprietor provides his or her own animals of a similar age and class.

Expenses

(3) The owner shall pay to the proprietor the expenses incurred by the proprietor under subsection (2) before the owner is entitled to remove the stray.

Sale where owner unknown

(4) Where the owner of a stray is unknown, an officer may, after advertising or making any other efforts to find the owner that the officer thinks reasonable, sell the stray by public auction after five days from the day on which the officer took custody of the stray.

Disposal of proceeds of sale

(5) The proceeds of a sale under subsection (4) shall be distributed in the following manner:

- (a) the expenses of a proprietor who fed and sheltered the stray before it was removed by the officer shall be paid to the proprietor;
- (b) the expenses of securing, caring for and feeding the stray before the sale shall be paid;
- (c) the expenses of the stray shall be paid;
- (d) the balance shall be paid to the Commissioner for deposit in the Consolidated Revenue Fund.

Return of stray

10. An officer may take the steps that the officer thinks necessary to have the owner of a stray return it to the premises of the owner or otherwise dispose of it.

Definition of "Coggins test"

11. (1) In this section, "Coggins test" means the Coggins test for Equine Infectious Anemia.

Application

(2) This section applies only to that portion of the Nunavut bounded on the south by the 60th parallel of north latitude, on the west by the 120th meridian of west longitude, on the north by the 62nd parallel of north latitude and on the east by the 110th meridian of west longitude.

Untested horses

(3) No person shall own or possess a horse that has not been given the Coggins test.

Import of horses

(4) No person shall import a horse without first producing to an officer a certificate from a qualified veterinarian stating that the horse

- (a) is in good health; and
- (b) has been given the Coggins test within the previous six months and has been found not to be diseased.

Annual test

(5) Every owner or person in possession of a horse shall, at least once a year, cause the horse to be given the Coggins test by a qualified veterinarian.

Certificate of veterinarian

(6) The owner or person in possession of a horse that has been given the Coggins test shall obtain from the veterinarian who administered the test a certificate stating

- (a) that the horse has been given the test and has been found not to be diseased; and
- (b) the date on which the test was administered.

Quarantine

(7) Where an owner or person in possession of a horse is unable to produce, on the demand of an officer, the certificate referred to in subsection (4) or (6), dated within one year of the demand,

- (a) the horse shall be deemed not to have been given the Coggins test; and
 - (b) the officer may cause the horse to be kept in quarantine in an insect-free stable or barn until the horse has been given the Coggins test and the certificate is produced to the officer.
- S.Nu. 2011,c.10,s.16.

Injured animals

12. (1) Where

- (a) an officer finds an animal so severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live, and
- (b) the owner refuses to consent to the destruction of the animal,

the officer shall summon a veterinary surgeon, or if one is not available, two reputable residents of the area and if the veterinary surgeon or the residents concur in writing with the opinion of the officer, the officer may, without the consent of the owner, kill the animal or cause it to be killed.

Where owner cannot be located

(2) Where

- (a) an officer finds an animal so severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live, and
- (b) after taking any reasonable steps that the officer considers advisable, the officer is unable to locate the owner of the animal,

the officer may kill the animal or cause it to be killed.

Officers

13. (1) The Minister may appoint any person as an officer to carry out the provisions of this Act.

Ex officio officers

(2) Every member of the Royal Canadian Mounted Police and every conservation officer appointed under the *Wildlife Act* is an officer under this Act by virtue of his or her office. S.Nu. 2003,c.26,s 252.

OFFENCES AND PUNISHMENT

Specific offence and punishment

14. (1) Every person who contravenes section 11 is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months or to both.

General offence and punishment

(2) Every person who contravenes a provision of this Act for which no specific punishment is provided is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not exceeding \$100 or to imprisonment for a term not exceeding one month or to both.