

My No: 7/6/3/9/1,
Agrarian Services Dept.,
P. O. Box 537 - Colombo 7.
03.07.1980

To All Asst. Commissioners,

**Trespass by Animals on Agricultural Lands
and Irrigation Works**

Your attention is drawn to Sec. 55 (2) (c) of the Agrarian Services Act No: 58 of 1979 and the relevant regulations Nos: 39 to 43.

2. You will observe from a perusal of the provisions of the law referred to above that:

- (a) An owner cultivator or occupier, either by himself or through another person is entitled to seize an animal found trespassing on his **agricultural land** and detain the animal until the damages and the expenses of maintenance of the animal are paid.
- (b) The Commissioner or a person authorized by him is empowered to tie up and detain an animal found trespassing on an **irrigation work** until damages and expenses of maintenance of the animal are paid.
- (c) It is lawful for the Cultivation Officer (in order to prevent damage) to seize any animal found trespassing in or upon any **agricultural land or irrigation work** in his area and impose a fine not exceeding Rs. 25/- on the owner of such animal.

3. In order to give effect to the above the following preliminary steps should be taken by you immediately.

- (i) Authorize the Farmer Representative or any other person in charge of an irrigation work to seize and detain an animal found trespassing or causing damage to such irrigation work in terms of Regulation 40.
- (ii) Authorize the Divisional Officer in each Division to issue notice to the owner of the animal in the case of damage to any Irrigation work, in terms of Regulation 43 (2).
- (iii) Authorize the Divisional Officer in each Division to hear an appeal from an aggrieved party against the damages assessed by the Cultivation Officer and vary the damages if necessary in terms of Regulation 43 (3).

- (iv) Authorize the Divisional Officer in each Division to sell any animal by public auction and to dispose of the proceeds of the sale in terms of regulation 43 (4).
- (v) Fix in consultation with the Asst. Director of Agriculture a reasonable rate per day or part thereof, applicable to the District for the calculation of expenses of maintenance of an animal seized and detained in terms of regulation 39, 40 and 43 (5). This rate may be revised from time to time.

4. It is essential that sufficient publicity should be given particularly with regard to:

- (a) obligation of owners of animals to take action to avert damage to agricultural lands and irrigation works.
- (b) in the event of any damage, the obligation of the owner to pay and the consequences of non payment.
- (c) the rate at which an owner is charged as expenses for the maintenance of an animal.
- (d) Cultivation Officers' powers regarding seizure of animals found trespassing on agricultural lands or irrigation works in order to prevent damage and the penalty to which the owner is liable in such an instance.

For the above purpose it is suggested that a sufficient quantity of hand bills be printed and distributed in the District through the C.O.O. The cost could be borne by the Agrarian Services Committees.

5. **Assessment and recovery of damages to Agricultural Lands:**

The following are the steps to be taken:

- (1) On receipt of the report of seizure C.O., visits the scene of damage forthwith.
- (2) Identifies the animal with the help of some responsible person and assesses the damage enlisting with the help of any official or person if necessary.
- (3) Makes an entry in his diary and writes a detailed report in his Field Book explaining how the animal was identified and the damage was assessed.
- (4) Issues notice to owner using the specimen in Annexure I, requiring him to pay the person who suffered damage, the damages and the expenses of maintenance at the rate fixed by

the Asst. Commissioner, within 48 hours of the receipt of the notice. The notice should either be wherever possible delivered by hand and acknowledgement obtained in the office copy or failing this it should be sent by Registered Post.

- (5) If the damage is paid to the cultivator within the time allowed, C.O., causes the animal to be released and makes an entry to that effect in his Diary.

- (6) Arranges for the sale of the animal by public auction by the D.O. (if duly authorized) or the Asst. Commissioner if:

(a) owner fails to pay

(b) owner is not traceable.

(Procedure for sale by Public Auction is explained elsewhere).

6. Assessment and recovery of damages to irrigation works:

Steps to be taken are as follows:

- (1) The person authorized as stated in para 3 (1) ties up and detains the animal found trespassing and causing damage to the irrigation work.
- (2) On receipt of the report of seizure C.O., visits the scene of damage.
- (3) Identifies the animal as stated in para 5 (2) above.
- (4) Makes an entry in his diary and writes a detailed report in the Field Book as stated in para 5 (3) above.
- (5) Makes a report to the Divisional Officer who issues notice to the owner as in para 5 (4) above requiring the owner to pay him (D. O.) or the C. O.
- (6) If the order is complied with D.O. C.O. issues a receipt for the payment and authorizes the release of the animal and makes an entry in his Diary to that effect.
- (7) Divisional Officer (if duly authorized) or the A.C., sells the animal by public auction if:
 - (a) owner fails to pay
 - (b) owner is not traceable.

(Procedure for sale by Public Auction is explained elsewhere).

7. Seizure of animal found trespassing by C.O.:

- (1) C. O. seizes an animal trespassing on an agricultural land or irrigation work in order to prevent any possible damage.
- (2) He seizes the animal and detains it and records the circumstances together with necessary evidence of the seizure.
- (3) Identifies the animal with the help of a responsible person.
- (4) Issues notice to the owner to pay him (C.O.) the penalty of Rs. 25/- together with the cost of maintenance of the animal at the fixed rate within 48 hours of the receipt of notice as stated in para 5 (4).
- (5) Issues a receipt for the money paid and releases the animal. Makes an entry to that effect in his Diary.
- (6) Arranges for the sale of the animal by public auction if:
 - (a) owner fails to pay
 - (b) owner is not traceable

(Procedure for sale by Public Auction is explained elsewhere).

8. Hearing of appeals:

The D.O., (if duly authorized) or the A.C. should hear appeals in regard to the quantum of damages awarded by the C.O., and vary the damages if found inadequate or excessive. In such a case the damages as so varied should be recovered from the owner of the animal.

9. Rules to be observed in the auctioning of animals:

- (1) Auction should be held within the shortest possible time after the lapse of 48 hours allowed.
- (2) Publicity should be given by affixing notices in all public places in the area as per specimen in Annexure IV. A copy of the notice should be filed along with a list of places where the notices were displayed. A minimum of two clear days notice should be given.

11. If any of the Services

- (3) Auction should be held as far as possible at the A.S. Centre or any other public place close to the site where the animal is kept detained.
- (4) Auction should be conducted in the presence of at least one member of the A.S Committee or another public officer from outside the Department.
- (5) Particulars of each auction should be entered in a Register to be kept for the purpose, as per specimen in annexure V.
- (6) If a breach of the peace is anticipated assistance from the Police should be sought.

10. **Accounting Procedure:**

- (1) The C.O., should issue a (A.S.C.) General receipt for damages recovered under para 5 or 6 and remit the money to the D.O with the least possible delay.
- (2) The D.O. should issue a (A.S.C.) General receipt for damages recovered direct from the owner of the animal and also for monies received from the C.O., and credit same to the Funds of the Agrarian Services Committee. He should also issue a receipt for money collected at the auction sale.
- (3) Following payments may, thereafter be made on duly perfected vouchers.
 - (i) Damages to the person who suffered damages
 - (ii) Cost of maintaining the animal
 - (iii) Cost of seizure under para 5 or 6 above
 - (iv) Cost of repairs to irrigation works damages, under para 5
 - (v) Balance of the money collected or the proceeds of the sale to the Agrarian Services Fund.
- (4) It should be noted, that no accounting is involved when the owner of the animal pays the person who suffered damages and obtains release of the animal within the time allowed.
- (5) A separate ledger Account should be maintained under the heading "Damage by Animals (Receipts & Payments)".

11. If any clarification is needed on the above instructions please contact the Services Branch of this Department.

12. Extra copies of this circular are sent herewith for distribution among D.OO.

Commissioner of Agrarian Services

c.c.

1. Secretary, Agricultural Development & Research,
2. Chairman, Agricultural Development Authority,
3. Director of Agriculture,
4. G.AA.,
5. A.DD., Agriculture,
6. Accountant (Internal Audit),
7. Auditor General.

Mr/M

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Annexure I

**Agrarian Services Act No. 58 of 1979 read
with Regulations published in Gazette
No. 66/14 of 14.12.1979**

Mr/Mrs.
.....
.....

You are hereby notified that.....(animal)

belonging to you has caused damage in a sum of Rupees.....
.....(Rs.....) to the
crop of.....belonging to.....
.....

You are hereby required, within 48 hours of this notice to pay to the
said.....the said sum
of Rupees.....together with
a sum of Rupees.....being expenses of main-
tenance of the said animal.

If you fail to do so, the said animal will be sold by public auction in
accordance with regulation 43 (4) of the aforesaid regulations.

.....
Cultivation Officer
.....(area)

Place :

Date :

Copy to : D.O.,.....

**Agrarian Services Act No. 58 of 1979 read
with Regulations published in Gazette
No. 66/14 of 14.12.1979**

Annexure II

Mr/Mrs.

.....

.....

You are hereby notified that.....(animal)
belonging to you has caused damage to the irrigation work called
.....in a sum of Rupees.....
.....having trespassed in or upon the
said irrigation work.

You are hereby required to pay me/cultivation officer Mr.....
.....of.....
within 48 hours of the receipt of this notice the said sum of Rupees
.....together with a sum of Rupees
.....being expenses of main-
tenance of the said animal.

If you fail to do so, the said animal will be sold by public auction in
accordance with regulation 43 (4) of the aforesaid regulations.

.....
Divisional Officer

.....Division

Place:

Date:

Copy to: C.O.,.....

**Agrarian Services Act No. 58 of 1979 read
with Regulations published in Gazette
No. 66/14 of 14.12.1979.**

Mr. Mrs.....

.....
.....
You are hereby notified that.....(animal)
belonging to you was found trespassing in or upon the Agricultural land
called...../irrigation work

called.....
.....irrigation work
called.....

You are hereby required to pay me within 48 hours of the receipt of
this notice a penalty of Rs. 25/- together with a sum of Rupees.....
being expenses of maintenance of the said animal.

If you fail to do so, the said animal will be sold by public auction in
accordance with regulation 43 (4) of the aforesaid regulations.

.....
Cultivation Officer

.....(area)

Place :

Date:

Copy to: D.O.,.....

**Agrarian Services Act No. 58 of 1979 read
with Regulations published in Gazette
No. 66/14 of 14.12.1979.**

Notice of Sale by Public Auction

Notice is hereby given that I, the Assistant Commissioner of Agrarian
Services.....District/the Divisional
Officer.....Division shall
sell the animal described in the schedule hereto by public auction to be
held at.....on.....
commencing at.....a.m./p.m.

The successful bidder should pay the full amount of the bid and remove
the animal immediately after the close of the sale.

Assistant Commissioner/
Divisional Officer

..... District/Division

Place :

Date :

Schedule referred to above

Description of Animal	Name & address of owner	Identification marks, if any
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Particulars of sale by Public Auction

1. Description of the animal :
.....
2. Regulation under which the animal was seized : 39/40/43/(5)
3. Name and address of owner:
.....
.....
4. Date of Auction :
5. Where the auction was held :
(a) Place :
(b) C.O.'s area :
6. Name and address of the successful bidder :
.....
.....
7. Amount of the successful bid :
8. Signature of the successful bidder :
9. Signatures of D.OO., and other officers present :
1.....
2.....

Receipts and Payments

Receipt				Payment				Cheque No. & date	
Receipt No. & date	Amount collected	Date	Vr. No.	Damages	Mainten- ance exp.	Cost of salzure	Repairs to Irrigation work		Penalty

Signature of D. O.