

Pounds Act
Proposed Amendments
Engagement Report

September 2017

Government of Yukon
Department of Energy, Mines and Resources

Purpose of the *Pounds Act*

The *Pounds Act* provides a legislative framework for the Government of Yukon to appoint a person to act as a pounds keeper to operate a pound for containment of stray or feral animals. The pounds keeper is responsible for the impoundment and safe keeping of animals delivered to a pound, and for recovering costs for damage to property caused by the animal.

Background

The *Pounds Act* and Regulations have functioned to resolve the issue of stray livestock trespassing and damaging property.

Since 1987, there have been a number of changes within the Government of Yukon that have affected the application and administration of the *Pounds Act*. Since the practice of free ranging livestock has ceased, livestock control in the past decade has largely consisted of removing stray and feral animals from highway corridors. Recent changes include: updating the *Highways Act* and the *Animal Protection Act*; creation of the Animal Health Unit in 2010 (Department of Environment); and the creation of an Animal Protection Officer position (within the Department of Environment) in 2015. The *Pounds Act* needed updating to harmonize with other legislation, as well as to meet current livestock control program requirements.

These amendments will clarify administration of the *Pounds Act* and reflect changes to government department roles with respect to livestock control.

Engagement Process

The Department of Energy, Mines and Resources conducted engagements with Yukon First Nations, municipalities, stakeholders and the public from July 11, 2017 to August 11, 2017.

A discussion paper/comment submission form was used to solicit feedback on the proposed amendments. This discussion paper was posted online and mailed directly to all Yukon First Nations.

The discussion paper is available for download on the Energy, Mines and Resources, Agriculture Branch website at <http://www.emr.gov.yk.ca/agriculture>. A French version is also available. The *Pounds Act* is available at http://www.gov.yk.ca/legislation/acts/pounds_c.pdf.

What we're doing next

Our next steps are to advance the proposed amendments to the Fall Session of the Yukon Legislative Assembly, which begins October 3, 2017. If passed and assented to, the amended *Pounds Act* will take effect immediately.

Following the legislative process, the Government of Yukon will be developing guidelines on how it manages stray livestock in Yukon. These guidelines will be administrative and operational in nature.

Thank you to everyone who provided feedback during this engagement process!

Responses from governments

Responses received from First Nation and municipal governments include the following.

- Concerns were received from First Nation governments regarding the Act’s applicability and jurisdiction on self-governing First Nations’ Settlement Lands.
 - The Act is a “law of general application,” which means that it applies on a self-governing First Nation’s Settlement Land until such time as that First Nation implements its own legislation for livestock control. The Government of Yukon is committed to working with First Nations if and when they choose to develop their own livestock control legislation.
- Concerns were received from First Nation governments regarding notification of the presence of stray livestock on Settlement Land.
 - The Department of Energy, Mines and Resources intends to address these concerns through the development of operational guidelines, following the legislative amendment process.
- Concerns were received from municipalities regarding the regulatory overlap between the Act and municipal animal control bylaws.
 - With the expansion of pound districts to encompass all of Yukon, The Department of Energy, Mines and Resources has decided not to add a provision to exclude municipalities from the Act. This means that the Act will, by default, apply within city limits.
 - This decision was taken so that the responsibility for stray livestock management rests with the Government of Yukon by default, rather than municipalities. The Government of Yukon does not want to burden municipalities with this responsibility if they do not have the desire or capacity to do so. If municipalities have the appropriate bylaws and wish to regulate stray livestock within their boundaries without assistance, the Government of Yukon can work to exclude them from the Act through a regulation or Memorandum of Understanding.

The following pages of this document detail the responses we received from the public and stakeholders for each of the amendments proposed. Responses are amalgamated. The responses from First Nation and municipal governments are not included in the summarized responses from the public and stakeholder engagement processes.

Responses from the public and stakeholders

1: Definition of animal

We proposed the following:

The definition of animal (below) in the amended *Highways Act* (2013) includes species not provided for under the *Pounds Act*, and doesn't allow for new (to Yukon) species that may need to be included under the *Pounds Act* definition in the future.

... "animal" means (a) alpacas, cattle, donkeys, geese, goats, horses, llamas, mules, sheep, and swine, (b) game farm animals as defined in the Game Farm Regulations made under the Wildlife Act, and (c) any other animal set out in the regulations.

Aligning the definitions will remove a potential gap in service when an authority under the *Highways Act* wants to contain a species (e.g., llama, alpaca) that is not allowed to be accepted by the pounds keeper under the *Pounds Act*.

We also want to add the ability for the minister to amend the definition (i.e., expand the spectrum of species that are currently considered 'animals'), as it is in the public interest for government to be able to impound any kind of livestock (e.g., yak) that may be causing a nuisance to property owners or a hazard on Yukon highways.

We received suggestions to expand the definition to all animals, and concerns regarding feral horses that may be impounded.

We do not want to expand the definition of animal to include all animals, because not all animals are considered livestock. Other acts, like the *Wildlife Act*, are responsible for some of those animals. We want to make sure that our definition of animal is consistent with the animals that can be captured under authority of the *Highways Act* if they pose a risk on public roads. We also want our definition to be consistent with agricultural practices and the kinds of animals kept as livestock in Yukon.

2: Assignment of capture, containment and enforcement responsibilities

We proposed the following:

The *Pounds Act* currently identifies agents that are to administer the Act (e.g., Conservation Officer), who no longer perform this function. In fact, anyone may deliver a stray or feral animal to a pound, and when they pose a danger on Yukon highways, a wrangler may be contracted to capture and deliver these animals to a pound.

We are proposing to eliminate confusion and/or duplication of services by stating that the Department of Energy, Mines and Resources can appoint a *class of persons* as Livestock Control Officers. We are also proposing to add the definition of Livestock Control Officer (i.e., person appointed by minister to enforce provisions of the *Pounds Act* and *Highways Act*) into the Act, as it is currently not included, which will contribute to clarity.

In addition, we are proposing to eliminate the ability for pound keepers to issue tickets (since they are not Government of Yukon employees and have no ticketing or enforcement training). Other enforcement officers or Livestock Control Officers would issue tickets instead.

We received suggestions on what criteria we can use when selecting livestock control officers. We are not defining the criteria for livestock control officers in the *Pounds Act*, but we will be developing operational guidelines in the near future and will incorporate this feedback.

3: Pound districts and boundaries

We proposed the following:

The Pounds Act currently requires the creation of pounds districts with boundaries, thereby creating distinct areas within which the Government of Yukon can respond to reports of stray or feral livestock. Yet, livestock or feral animals may stray anywhere in the territory. This can create a hazard on Yukon highways. The Government of Yukon should be able to take action to keep highways safe when animals are reported anywhere (i.e., within municipalities), and not just within boundaries of pounds districts. This would also result in an improved ability to reunite livestock with owners throughout Yukon. We propose to:

- Establish that the *Pounds Act* applies throughout the territory;
- Specify that one pound (facility) will be maintained (near Whitehorse); and
- Keep the authority to create other pounds as needed.

Can you think of anywhere in Yukon the *Pounds Act* should not apply?

We received support for improving our ability to respond to reports of stray livestock and concerns about the maintenance of only one pound facility near Whitehorse.

We are keeping only one pound facility near Whitehorse for the time being, but the amended *Pounds Act* will give us the ability to create new facilities anywhere in the territory if the need arises, instead of just in two small pound districts—this is one of the benefits of an expanded pound district that includes all of Yukon.

4: Penalty options

We proposed the following:

The current fine amount for livestock at large is high enough that livestock owners sometimes choose jail over payment. This is a severe outcome for the owner and is onerous for government, as it can result in further livestock care issues. Current fines are \$100 for the first offense, \$300 for a second offense within three years, and \$500 for each subsequent offense within three years.

We are proposing to establish other penalty options in order to enhance compliance; these could include community service, investment in fencing (i.e., requiring owners to build or repair fencing at their own expense), posting of bond to ensure compliance, submitting to inspection, or prohibition on ownership. These penalties would be more educational in nature, and would ultimately contribute to better outcomes for offenders, animals and government. We are also looking at an option to instead establish a single fine not exceeding \$1000 for the offense of allowing livestock to run at large.

We received support for penalties that will improve public safety and livestock care. We received concerns that the penalties would be too severe for the offense, and that the penalties would not take into account the intent of the owner and whether the owner did everything they could to prevent the animal from straying.

After reviewing the penalty options we currently have in the *Pounds Act*, we decided to keep them the same. Our current penalty options give Livestock Control Officers a range of options to choose from, and will allow the livestock control officer to work with the animal owners in the way that best fits the situation.

5: Identifying impounded animals

We proposed the following:

Currently, the Act gives the pounds keeper the authority to mark impounded animals with tattoos or tags. This is an outdated methodology and is dangerous for both the pound keeper and the animals. We propose to change the language such that the animal can be identified and documented (i.e., by photography) rather than permanently marked.

We received a suggestion to use micro-chipping as an identification method for impounded animals. While micro-chipping is highly valued for domestic animals, it is not necessarily the best option for livestock. Micro-chipping can be more expensive, and an animal owner may be required to pay a significantly high amount of money to retrieve their animal (or, they may give up their animal and never retrieve it).

Animal owners can often recognize their own livestock, which helps support the decision to use non-invasive forms of identification.

6: Additional comments

We asked the following:

Do you have any additional comments, or concerns with the *Pounds Act* that are not addressed in the amendments above?

We received concerns regarding the spread of disease between wild and domestic sheep and goats, which is outside the scope of the *Pounds Act*.