



# Sheep Protection Act

CHAPTER 424

OF THE

REVISED STATUTES, 1989

amended 1994-95, c. 7, ss. 101-103

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## An Act to Amend and Consolidate the Law Relating to the Protection of Sheep

*title amended 1994-95, c. 7, s. 101.*

### Short title

1 This Act may be cited as the *Sheep Protection Act*. R.S., c. 424, s. 1; 1994-95, c. 7, s. 102.

### Interpretation

2 In this Act,

- (a) "dog" means any dog, male or female;
- (b) "owner" of a dog includes any person who possesses or harbours a dog;
- (c) "sheep" means sheep of any age. R.S., c. 424, s. 2.

PART I (Sections 3 to 5) *repealed 1994-95, c. 7, s. 103.*

## PART II

### PROTECTION OF SHEEP

### Interpretation

6 In this Part,

- (a) "injured" and "injuring" apply to injuries caused by wounding, worrying, terrifying or pursuing;
- (b) "Minister" means the Minister of Agriculture and Marketing. R.S., c. 424, s. 6.

### Right to kill dog

7 Any person may kill any dog which

- (a) is found pursuing, worrying, wounding, killing or injuring sheep; or
- (b) is found straying at any time, and not under proper control, upon premises where sheep are usually kept. R.S., c. 424, s. 7.

### Liability of municipality

**8 (1)** Whether the owner of any dog killing or injuring sheep is known or not, the municipality in which the sheep were killed or injured shall be liable to the owner of the sheep for the amount of damage ascertained by the sheep valuer or justice of the peace as hereinafter provided, and shall pay over such amount to the owner within thirty days after the owner has filed with the clerk an affidavit that to the best of his knowledge and belief the sheep were killed or injured by a dog and that the dog was not owned by him or from his household.

#### **Liability unaffected**

**(2)** The municipality shall be liable under subsection (1), whether or not the municipality has passed any by-law for the imposition of an annual tax or licence fee upon the owners of dogs or for the registration of dogs under Part I or whether the taxes, fees, fines, penalties and moneys collected and paid to the municipality under any such by-law or this Act are sufficient to satisfy any or all claims for compensation, damages, costs, fees and other expenses. R.S., c. 424, s. 8.

#### **Appointment of sheep valuers**

**9 (1)** The council of every municipality shall appoint one or more competent persons as sheep valuers.

#### **Report by sheep valuers**

**(2)** Within forty-eight hours after it is discovered by the owner that one or more of his sheep have been killed or injured by a dog or dogs, he shall notify a sheep valuer, or the clerk of the municipality who shall forthwith notify a sheep valuer, and the valuer so notified shall immediately make his report in writing, within ten days thereafter, giving in detail the extent and amount of the damage, and whether done by dogs, to the clerk of the municipality and shall at the time forward a copy of such report to the owner of the sheep.

#### **Restriction on destruction of carcass**

**(3)** The carcass of the sheep shall not be destroyed until it has been seen by the valuer.

#### **Appeal from sheep valuer**

**(4)** Where either the owner of the sheep or the mayor or warden of a city, town or municipality is dissatisfied with the report of the valuer, the city, town or municipality may appeal therefrom to any justice of the peace within the city, town or municipality, who may make a further investigation on oath and the decision and award of the justice of the peace shall be final and conclusive as to the amount of the damage done.

#### **Appeal period and deposit**

**(5)** The appeal shall be made within thirty days after the making of the report by the valuer and ten dollars shall be deposited with the justice of the peace at the time of the appeal to be forfeited if the report of the valuer is sustained.

#### **If no sheep valuer or failure of sheep valuer to act**

**(6)** If no sheep valuers have been appointed or the clerk or valuer does not discharge the duty imposed upon him by this Act, any justice of the peace within the municipality, on the application of the owner of the sheep, may make an investigation on oath, and the decision and award made by the justice of the peace shall be final and conclusive as to the amount of damage done, and the municipality, in addition to its liability to the owner of the sheep as provided by Section 8, shall forthwith pay the cost of such investigation as fixed by him not exceeding ten dollars. R.S., c. 424, s. 9.

### **LIABILITY OF OWNER OF DOG**

#### **Right of recovery by municipality**

**10 (1)** A municipality, having paid to the owner of the sheep the amount of the damage ascertained as above provided, shall be entitled to recover the amount so paid from the owner of the dog if resident in the municipality or, if the owner of the dog resides within a city or incorporated town, from such city or incorporated town in any court of competent jurisdiction without proving that it was vicious or accustomed to worry sheep.

#### **Right of recovery by city or town**

**(2)** In the event of payment by any city or incorporated town under this Act, the city or incorporated town shall be entitled to recover the amount so paid from the owner of the dog.

#### **Ascertaining owner of dog**

**(3)** In order to ascertain the owner of the dog which killed or injured the sheep, the sheep valuer or justice of the peace, as the case may be, in any investigation made under Section 8 or 9, may issue a subpoena calling upon any persons to attend before him and may administer an oath to such persons and may examine such persons touching their knowledge of the matter.

### **Damage caused by more than one dog**

(4) When it appears that the damage was caused by more dogs than one, the court, sheep valuer or justice of the peace, as the case may be, may apportion the damages as may be deemed just, having regard to the strength, ferocity and character of the dogs concerned.

### **Duty of owner to kill dog**

(5) Where a dog is known to have killed or injured sheep, the owner on being duly notified shall within forty-eight hours cause the dog to be killed.

### **Refusal by owner to kill dog**

(6) Where the owner refuses or neglects to kill the dog, he may be summoned before any justice of the peace who may order that the dog be killed and in such case a constable may enter upon the premises of the owner and may kill the dog.

### **Costs**

(7) The justice of the peace may direct the owner to pay the costs of the proceedings and of the destruction of the dog and, if he deems the neglect or refusal of the owner to have been unreasonable, may impose on him a penalty not exceeding ten dollars. R.S., c. 424, s. 10.

## **APPEALS**

### **Appeal from justice of the peace**

11 An appeal against any decision, award, apportionment or order made by a justice of the peace, under this Part, may be made to the judge of the county court for the county or district in which the cause of the action arose or in which the party complained against or one of them resided at the time of making the complaint, and the proceedings shall be the same as nearly as may be as on appeals under the *Summary Proceedings Act*. R.S., c. 424, s. 11.

## **PROCEDURE**

### **Substantial compliance**

12 The times and the method of procedure set out in this Act shall be regarded as merely directory and a proceeding which is in substantial conformity with this Act shall not be open to objection on the ground that it is not in strict compliance therewith. R.S., c. 424, s. 12.

## **GENERAL**

### **Fees and returns**

13 Subject to Section 9, every justice of the peace shall be entitled to charge such fees in cases of proceedings under this Act as may be lawful for him to charge in other cases within his jurisdiction, and he shall make the returns usual in cases of conviction and also a return in each case to the clerk of the municipality, whose duty it shall be to enter the same in a book to be kept for that purpose. R.S., c. 424, s. 13.

### **Penalty for shooting sheep**

14 Every person, who shoots sheep or attempts to kill by shooting sheep in or upon a common pasture or a pasture in which the sheep of more than one owner are grazing, shall be liable to a penalty of not less than ten dollars nor more than fifty dollars. R.S., c. 424, s. 14.

### **Entitlement to recovered penalty**

15 All penalties recovered under this Act shall belong to the municipality. R.S., c. 424, s. 15.

### **Use of moneys collected by municipality**

16 All money, taxes, fees, fines, penalties and money collected and paid to any municipality under this Act shall constitute a fund for satisfying the damages that arise from dogs killing or injuring sheep in the municipality, the payment of costs of proceedings under this Act, the fees of sheep valuers and other expenses and disbursements incident to the enforcement or incurred in carrying out this Act, and the residue, if any, shall form part of the funds of the municipality for the general purposes thereof. R.S., c. 424, s. 16.

### **Powers of municipal council**

17 Every municipal council shall have power to

(a) fix the compensation to be paid to sheep valuers appointed under this Act and appropriate, assess for and pay the same; and

(b) assess for and pay such other expenses and disbursements as are necessarily incurred in the carrying out of this Act. R.S., c. 424, s. 17.

### **Appointment of sheep valuer by city or town**

**18 (1)** Where the sheep were killed or injured within a city or incorporated town by a dog owned or harboured in a city or incorporated town, and the owner of the dog is not known, whether the dog was owned within the city or incorporated town or elsewhere, a sheep valuer to hold such inquiry under this Act shall be appointed by the city or town council.

### **Report**

**(2)** Such valuer shall make a report in writing to the clerk of the city or incorporated town giving in detail the extent of injuries and the amount of damage done.

### **Compensation**

**(3)** If the council of such city or town is satisfied that the damage was done by a dog owned within the city or town, or if it is not known whether such dog was owned within the city or incorporated town, or elsewhere, the council shall award to the aggrieved party for compensation a sum equal to the amount of the damage sustained by him as fixed by the sheep valuer and the treasurer of the city or town shall pay over to the person aggrieved the amount so awarded.

### **If valuer finds dog not owned in city or town**

**(4)** In the event of the valuer finding that the dog was not owned in the city or town, then the time within which the owner of the sheep may apply under Section 9 to the clerk of the municipality within which such city or town is situated shall be one month after the killing or injury or two weeks after such finding, whichever period shall expire last. R.S., c. 424, s. 18.

