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In situations where escaped livestock have caused significant damage to neighbouring property, the question of liability may not be as clear-cut as you might think.

The Fencing Act 1978 (as amended) considers the nature, and condition of a fence to assess whether a boundary fence is reasonably satisfactory for the purposes of keeping livestock within a boundary and neighbouring livestock out.

For example, cattle farmers who may only require a two-wire fence to contain their cattle would also be expected to construct a boundary fence that could reasonably keep sheep out.

Where an occupier of land discovers that livestock have trespassed within their boundary (that has been adequately fenced in accordance with the above), the land occupier has the right to impound and charge trespass fees.

A land occupier who has an adequately fenced boundary (described above) can also impound and detain livestock on their own property. He/she shall within 24 hours of impounding, notify the livestock owner or the local impound (Council) of the address of the livestock and the trespass fees claimed.

It is important that the land occupier feeds and maintains the livestock with all reasonable care as required.

Once the trespass fees have been paid, the land occupier must immediately release the livestock into the care of the livestock owner.

If the livestock owner has not paid within 48 hours of notification, the land occupier shall transport the livestock to the nearest impound, charges for which are added to the trespass fees. These trespass rates are found within the Impound Act 1955 (as amended).

A land occupier who has an adequately

Liability for escaped stock

In rural New Zealand, it is not unusual to discover livestock wandering outside of the livestock owner's boundary.

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fenced boundary (described above) can elect to claim for damages instead of trespass rates. Trespass rates are reasonably low and may not cover cost of damage in situations where livestock have trespassed through crop or damaged property.

Here, the livestock owner shall give written notice to the pound-keeper of the intention to claim for damages. After which, the pound-keeper shall release the livestock to the owner.

Pigs, goats and poultry are an exception to the trespass rules above. Where pigs, goats or poultry trespass once, a land occupier may charge normal trespass rates. Should the animals trespass again within a three month period, the land occupier is entitled to double the trespass rates and so on.

A land occupier may also elect to destroy these animals with the exception to branded Angora, Saanen or Tongenbug goats. Where a land occupier wishes to destroy pigs, goats or poultry, the land occupier shall, within 24 hours of doing so, send a written description of the animal and the place it was destroyed to the livestock owner (if known) or the local police station.

If the carcass is not claimed within 48 hours of this notice, the land occupier may dispose of the carcass.

Although the rules for trespassing livestock appear relatively straightforward, a land occupier must be mindful of the strict

procedures within the Impound Act 1955 (as amended). Livestock are usually an expensive or loved chattel and if procedure is incorrectly followed, the land occupier could

face liability. It is recommended that you consult with a legal professional who specialises in rural law before impounding or destroying neighbouring livestock.