

CHAPTER 19:09 PREVENTION OF CRUELTY TO ANIMALS ACT

Acts 25/1960, 6/1967, 36/1973 (s. 50), 22/1983, 12/1986 (s. 5), 22/2001 (s. 4); R.G.N.s 153/1963, 6/1967.

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SCHEDULE

Excepted Operations.

AN ACT to consolidate and amend the law relating to the prevention of cruelty to animals.

[Date of commencement: 19th August, 1960.]

1 Short title

This Act may be cited as the Prevention of Cruelty to Animals Act [*Chapter 19:09*].

2 Interpretation

In this Act—

“animal” means—

- (a) any kind of domestic vertebrate animal;
- (b) any kind of wild vertebrate animal in captivity;
- (c) the young of any animal referred to in paragraph (a) or (b);

“inspector” means a person who has been appointed as an inspector in terms of section *fifteen*;

“knacker” means any person whose trade or business it is to kill any horse, mule, ass, bovine, sheep, goat or pig, the meat of which is primarily intended for animals;

“Minister” means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“offence” means an offence under this Act;

“operation” means any operation performed on any animal, with or without the use of instruments, which involves interference with the sensitive tissues or the bone structure of an animal, other than—

- (a) the making of injections or extractions by means of a hollow needle; or
- (b) an operation included in the Schedule;

“owner”, in addition to its ordinary meaning, includes any person having the charge, custody or control of any animal;

“wild animal” includes wild bird and reptile.

3 Offences

(1) Any person who—

- (a) cruelly beats, kicks, ill-treats, overrides, overdrives, overloads or tortures any animal or causes any animal so to be used; or

- (b) drives or uses any animal which is so diseased or so injured or in such a physical condition that it is unfit to do any work; or
- (c) being the owner, abandons any animal or causes or permits any animal to be abandoned; or
- (d) by wantonly or unreasonably doing or omitting to do any act or by causing or procuring the commission or omission of any act, causes any unnecessary suffering to any animal; or
- (e) wantonly or unreasonably does or causes or procures the commission of any act likely to infuriate or terrify any animal; or
- (f) being the owner, permits in any manner aforesaid any unnecessary suffering to be caused to any animal or permits such animal to be infuriated or terrified as aforesaid; or
- (g) cruelly or unnecessarily ties up or confines any animal or causes or permits any animal so to be tied up or confined; or
- (h) conveys or carries or causes or procures or, being the owner, permits to be conveyed or carried, any animal in such a manner or position as to cause that animal any unnecessary suffering; or
- (i) causes, procures or assists at the fighting of any animal, or keeps, uses, manages or acts or assists in the management of any premises or place used for the purpose or partly for the purpose of fighting any animal, or permits any premises or place so to be kept, managed or used, or receives or causes or procures any person to receive any money for the admission of any person to such premises or place; or
- (j) without any reasonable cause or excuse, administers or causes or procures, or, being the owner, permits the administration of, any poisonous or injurious drug or substance to any animal or, without any reasonable cause or excuse, causes any such poison or substance to be taken by any animal; or
- (k) subjects or causes or procures, or, being the owner, permits to be subjected, any animal to any operation which is performed without due care and humanity;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment,

[Subsection as amended by section 4 of Act No. 22 of 2001]

(2) For the purposes of this section, an owner shall be deemed to have permitted cruelty if he has failed to exercise reasonable care and supervision in respect of the protection from such cruelty of any animal which is his property or in his charge.

4 Knackers to comply with regulations

(1) Every person who carries on or assists in carrying on the trade or business of a knacker shall observe and conform to any regulations which are applicable to him and, if any such person contravenes or causes or procures or permits any contravention of any such regulation, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(2) For the purposes of section *three*, a knacker shall be deemed to be the owner of any animal delivered to him.

(3) For the purposes of this Act an animal shall be deemed to have been delivered to a knacker if it has been delivered either to the knacker himself or to any person on his behalf or at a knacker's yard.

5 Control of pet shops, boarding kennels, etc.

(1) Every person who—

- (a) carries on or assists in carrying on in a shop, store or other fixed place of business, the trade or business of selling pets; or
- (b) carries on the business of caring for animals belonging to other persons; or
- (c) keeps wild animals in captivity;

shall observe and conform to any regulations which are applicable to him, and if any such person contravenes or causes or procures or permits any contravention of any such regulations, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(2) For the purposes of section *three*, a person carrying on a trade or business mentioned in paragraph (a) or (b) of subsection (1) shall be deemed to be the owner of any animal accommodated on such premises.

6 Sale and use of poisoned grain prohibited

Any person who—

- (a) sells, barter or offers or exposes for sale or barter, gives away or causes or procures any person to sell, barter or offer or expose for sale or give away, or knowingly is a party to the sale, barter or offering or

exposing for sale or barter or giving away of any grain or seed which he knows has been rendered poisonous except for *bona fide* use in agriculture or the interests of science; or

- (b) knowingly puts or places, or causes or procures any person to put or place or knowingly is a party to the putting or placing, in or upon any land or building, of any poison or any fluid or edible matter, not being sown seed or grain, which he knows has been rendered poisonous;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

Provided that it shall be a sufficient defence to a charge of contravening paragraph (b) for the person charged to prove that the poison, fluid or edible matter was put or placed for the purpose of destroying insects, pests or vermin where it was necessary to do so for the preservation of buildings or ensuring the comfort of persons there residing or in the interests of public health, agriculture, science or the preservation of other animals or for the purpose of treating or preserving the land, and that all reasonable precautions were taken to prevent injury thereby to any other animal.

7 Custody of animals and vehicles pending proceedings

(1) Where a person having charge of a vehicle or animal is apprehended by a police officer for any offence, or where any animal is found by a police officer being treated with cruelty, it shall be lawful for that or any other police officer to take charge of such vehicle or animal, and to remove it or cause it to be removed to and to keep it or cause it to be kept in some place of safe custody until the termination of the proceedings.

(2) Whenever there is reason to believe on reasonable grounds that an offence has been committed in relation to any animal, a magistrate having jurisdiction in the area in which the offence is alleged to have been committed may, by order in writing, authorize any police officer or inspector to seize such animal and to remove it or cause it to be removed to some place of safe custody and there to keep it or cause it to be kept pending the institution of proceedings and the hearing of the charge, if such magistrate is satisfied that such seizure and removal are necessary in order to prevent the animal from being exposed to further cruelty.

(3) The court convicting any person of an offence committed in relation to an animal which has been kept in custody under this section shall, in addition to any penalty it may impose in respect of such offence, forthwith give judgment against the person convicted or, if there are two or more such persons, against any one of them or against two or more of them jointly or severally and in favour of the State or any person under whose custody an animal has been placed for an amount equal to the expenses which the court finds to have been incurred in connection with the seizure and custody of the animal or the vehicle mentioned in subsection (1) or the animal and such vehicle, as the case may be, and any such judgment may be executed in the same manner as if it had been pronounced in the course of civil proceedings.

(4) At the conclusion of any proceedings in respect of an offence committed in relation to an animal which has been kept in custody under this section, such animal may be delivered to the owner thereof or dealt with in such other manner as the court may direct, and any vehicle mentioned in subsection (1) shall be delivered to the owner thereof or to such other person as such owner may nominate.

8 Court may order destruction of animal

(1) Where the owner of an animal is convicted of an offence in respect of such animal, the court may, if satisfied that it would be cruel to keep it alive—

- (a) direct that the animal be destroyed and assign it to a suitable person for that purpose; and
- (b) order that any reasonable expenses incurred in destroying the animal and removing and burying the carcass shall be paid by the owner.

(2) The person to whom an animal has been assigned under subsection (1) shall, as soon as possible, destroy the animal or cause or procure it to be destroyed in his presence without unnecessary suffering.

(3) Any order for the payment of expenses by the owner of an animal under paragraph (b) of subsection (1) may, at the instance of any interested party, be made a civil judgment of the court making the order by lodging a copy of the order certified by the proper officer in such court, and thereupon the order shall be recorded and have the same effect as any civil judgment of such court.

9 Court may deprive owner of ownership or order disposal of animal

(1) Where the owner of an animal is convicted of an offence in respect of such animal, the court may, in addition to any other punishment—

- (a) deprive such owner of the ownership of the animal and make such order as to the disposal of the animal as it thinks fit; and additionally, or alternatively
- (b) order such person to be disqualified, for such period as it thinks fit, from having custody of any animal or of any animal of a kind specified in the order.

(2) A court which has ordered the disqualification of an owner in pursuance of this section may, if it thinks fit, suspend the operation of the order—

- (a) for such period as the court thinks necessary for enabling arrangements to be made for the custody of any animal to which the disqualification relates; or
- (b) pending an appeal.

(3) If a person has custody of any animal in contravention of an order made in terms of this section he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

10 Power of police officer or inspector to remove animal for treatment

(1) If a police officer or inspector finds any animal which is so diseased or injured or is suffering in such other way that in his opinion it is desirable that it should receive treatment in order to relieve its suffering, he may, if the owner is absent or refuses to consent to the treatment of the animal, at once summon a veterinary surgeon or, if any veterinary surgeon is within reasonable distance and if the animal can without causing it unnecessary suffering be moved, take it or cause it to be taken to the veterinary surgeon for such treatment.

(2) Any expenses which may reasonably be incurred by reason of any action taken by a police officer or inspector under subsection (1), including the expenses and fees of any veterinary surgeon, may be recovered from the owner as a civil debt.

11 Destruction of animal by police officer or inspector

(1) If a police officer or inspector finds any animal so diseased or so severely injured or in such a physical condition that in his opinion it ought to be destroyed, he shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon a veterinary surgeon, if any veterinary surgeon is within reasonable distance, or two responsible persons, and if such veterinary surgeon or such responsible persons, after having duly examined such animal, give a certificate that the animal is mortally injured, or so severely injured or so diseased or in such physical condition that it is cruel to keep it alive, it shall be lawful for the police officer or inspector, without the consent of the owner, to slaughter the animal, or cause or procure it to be slaughtered, with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable, and if the slaughter takes place on any public road, to remove the carcass or cause it to be removed therefrom:

Provided that if such police officer or inspector has reason to believe on reasonable grounds that the condition of the animal is such that it ought to be destroyed without delay, it shall be lawful for him to slaughter it or to cause or procure it to be slaughtered without obtaining such certificate.

(2) Any expenses which may reasonably be incurred by any police officer or inspector in carrying out the provisions of this section, including the expenses and fees of any veterinary surgeon or the said responsible persons, and whether the animal is slaughtered under this section or not, may be recovered from the owner as a civil debt.

12 Entry by police officer or inspector

(1) Any police officer or inspector may enter upon any premises where he has reasonable grounds for believing that such entry is necessary for the prevention, investigation or detection of an offence in terms of this Act.

(2) Any person who hinders or obstructs a police officer or an inspector in the exercise of his functions in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

13 Arrest without warrant

Every person who is suspected on reasonable grounds of having committed an offence may, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant, be arrested without warrant by a police officer, and shall be brought before a magistrates court and dealt with in accordance with this Act.

14 Separate charges in respect of each animal

Separate charges may be brought against any person or persons in respect of each animal if more than one are concerned.

15 Appointment of inspectors

(1) The Minister may appoint persons to be inspectors for the purposes of this Act:

Provided that the Minister shall not—

- (a) appoint any person who is not an officer or employee in the Public Service without his consent;
- (b) appoint any person who is an officer or employee of a Ministry for which the Minister is not responsible, without the consent of the Minister responsible for the Ministry concerned.

(2) An inspector shall be furnished with a certificate signed by or on behalf of the Minister which shall state that the holder has been appointed as an inspector for the purpose of this Act.

(3) An inspector exercising any function in terms of this Act shall on demand by any person concerned produce for inspection the certificate furnished to him in terms of subsection (2).

16 Regulations

(1) The Minister may make regulations providing for all matters which, by this Act, are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) regulating and controlling the manner in which the trade or business of slaughtering animals shall be carried on;
- (b) regulating and controlling the manner in which animals may be exhibited and the manner in which the business of selling animals or caring for animals belonging to other persons shall be carried on;
- (c) regulating and controlling the manner in, and conditions under which, wild animals shall be kept in captivity;
- (d) regulating and controlling the manner in which the business of a horse-riding establishment shall be carried on;
- (e) regulating and controlling—
 - (i) the transportation or movement of animals; and
 - (ii) the hawking of animals; and
 - (iii) the keeping of domestic animals;and
- (f) the registration or licensing of any trade, business or premises referred to in paragraphs (a) and (b) and the payment of fees for such registration or such licensing.

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

SCHEDULE (Section 2)

EXCEPTED OPERATIONS

1. The destruction of any animal by painless methods.
2. Any non-surgical treatment given to an animal by—
 - (a) its owner; or
 - (b) a member of the household of which the owner is a member; or
 - (c) a person in the employment of the owner; or
 - (d) a person in the employment of a person referred to in subparagraph (b).
3. Any minor operation, being an operation not customarily performed only by a veterinary surgeon, carried out by a person, otherwise than for payment or material advantage, engaged or employed in farming, to any animal used for the purposes of agriculture.
4. Anything done in the course of his duties by a person employed by the State.
5. The rendering in an emergency of first aid for the purpose of saving life or relieving pain.
6. The performance of the following operations—
 - (a) the docking of the tail of a dog before its eyes are open;
 - (b) the amputation of the dew claws of a dog before its eyes are open;
 - (c) the castration by the surgical removal of the testes of any of the following animals—
 - A. a bull not older than nine months;
 - B. a ram not older than six months;
 - C. a billy-goat not older than six months;
 - D. a boar not older than three months:Provided that nothing in this paragraph shall be construed as authorizing the performance of any such operation by a person under the age of eighteen years.
7. The performance by a registered medical practitioner of an operation on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings.
8. The carrying out or performance of any operation, treatment or test by a registered medical practitioner or a registered dental surgeon at the request of a veterinary surgeon.

9. The performance by any person of certain operations, treatments and tests, under the direction of a veterinary surgeon as prescribed by regulations.
10. The performance of any operation, treatment or test by a *bona fide* veterinary student attending a recognized veterinary school and under the personal supervision of a registered veterinary surgeon with whom for the time being, the student is undergoing instruction.
11. The performance or carrying out of an operation, treatment or test by any person licensed in terms of subsection (1) or (5) of section 4 of the Scientific Experiments on Animals Experiments Act [*Chapter 19:12*].
12. The branding, ear-tagging or tattooing, as the case may be, of any animal.
13. The beak-trimming of any bird:
 Provided that not more than one-third of the beak is removed.