

I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

21st October, 2014

ACT No. XXXV of 2014

AN ACT to amend the Animal Welfare Act, Cap.439.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title and
coming into
force.
Cap. 439.

1. (1) The short title of this Act is the Animal Welfare (Amendment) Act, 2014, and this Act shall be read and construed as one with the Animal Welfare Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date as the Minister may by notice in the Gazette establish, and different dates may be so established for different provisions of this Act.

(3) A notice under sub-article (2) may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

Amendment of
article 2 of the
principal Act.

2. Article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition "bred animals" there shall be added the following new definitions:

" "circus" means any place where animals are introduced for the purpose of performance, manoeuvres and shows or otherwise and shall include any place where

animals used in such circuses are kept or trained;

"circus operator" means the owner of a circus, or any person responsible for the operations of a circus, or the administrator or agent thereof;

"circus promoter" means any person responsible for the organisation or promotion of a circus in Malta, or the administrator or agent thereof;

"Commissioner" means the Commissioner for Animal Welfare as appointed under this Act and includes any officer assigned to assist the Commissioner and authorised by him in that behalf;;

(b) the definition "Director" shall be deleted;

(c) immediately after the definition "Department" there shall be added the following new definitions:

"Director for Animal Welfare" means the Director for Animal Welfare appointed under this Act and shall have the functions, powers and duties as are vested in him under this or by this Act or any regulations made thereunder;

Cap. 437. "Director for Veterinary Services" means the Director for Veterinary Services as defined in the Veterinary Services Act and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;;

(d) immediately after the definition "Minister" there shall be added the following new definition:

Cap. 492. " "non-governmental organisation" means a voluntary organisation that has been established principally with the objective of promoting and advocating for animal welfare, animal rights or caring of animals, and which has been enrolled with the Commissioner for Voluntary Organisations under the Voluntary Organisations Act;; and

(e) immediately after the definition "veterinary surgeon" there shall be added the following new definition:

" "Veterinary Surgeons' Council" means the Council established under article 39 of the Veterinary Services Act."

Cap. 437.

Amendment of article 3 of the principal Act.

3. In sub-article (2) of article 3 of the principal Act, for the words "The State recognises" there shall be substituted the words "The State recognises that animals are sentient beings and".

Amendment of article 4 of the principal Act.

4. Article 4 of the principal Act shall be substituted by the following:

"Council for Animal Welfare.

4. (1) There shall be a Council, to be known as the Council for Animal Welfare, consisting of a Chairman and eleven members, which shall exercise and perform the functions assigned to it by this Act or by any other law.

(2) The Council for Animal Welfare shall be composed as follows:

(a) a Chairman, appointed by the Prime Minister, after consultation with the Minister;

(b) the Director for Veterinary Services or his representative;

(c) the Director for Animal Welfare or his representative;

(d) a representative of the Ministry responsible for veterinary services;

(e) one veterinary surgeon, employed in the public service, with experience in animal health medicine;

(f) one veterinary surgeon, employed in the public service, with experience in farm animals' matters;

(g) one veterinary surgeon with experience in private practice on small animals appointed after consultation with bodies representing private veterinary surgeons in Malta;

(h) two persons from non-governmental organisations;

(i) one person from amongst such persons or groups representing the interests of animal welfare and animal rights; and

(j) two persons representing the interests of livestock breeders and animal sport groups.

(3) The members referred to in sub-article (1)(b) to (j), both inclusive, shall be appointed by the Minister for such terms as the Minister shall decide from time to time.

(4) The members referred to in sub-article (1)(h) to (j), both inclusive, shall be appointed by the Minister from such persons who, in the opinion of the Minister, best represent the persons, groups or non-governmental organisations.

(5) The Minister shall appoint a Deputy Chairman from amongst the members of the Council.

(6) The Minister shall appoint a secretary to the Council.

(7) Subject to the provisions of this Act and to any regulations made thereunder the Council shall regulate its own proceedings:

Provided that the Council may act notwithstanding any vacancy amongst its members.

(8) The Council shall have the power to co-opt, without the right to vote, or allow the presence of persons who are not members of the Council.

(9) The Council, with the concurrence of the Minister, shall have the power to appoint sub-committees to deal with specific matters including farm animal housing systems, biotechnology and animal experiments.

(10) The Minister may terminate the appointment of a member of the Council, and in the case of the Chairman of the Council the Prime Minister may terminate the appointment thereof, if he is satisfied that:

(a) without the consent of the Council, he failed to attend the meetings during a continuous period of four months;

(b) he is an undischarged bankrupt or has made an arrangement with his creditors, or is insolvent or has been found guilty of an offence affecting public trust or any offence under this Act or any regulations made thereunder;

(c) if, being a member chosen on the basis of his representative status, he ceases to retain such representative status:

Provided that this sub-article shall not be construed to restrict the powers of the Minister and Prime Minister to terminate the appointment of any member or the Chairman of the Council at any time if deemed appropriate."

Amendment of article 5 of the principal Act.

5. In paragraph (e) of article 5 of the principal Act, for the words "the Minister, in issuing regulations," there shall be substituted the words "advise the Minister, in issuing regulations,".

Amendment of article 6 of the principal Act.

6. In article 6 of the principal Act, the words "Subject to the provisions of such regulations and of this Act, the Council may regulate its own procedures." shall be deleted.

Amendment of article 8 of the principal Act.

7. Immediately after sub-article (3) of article 8 of the principal Act, there shall be added the following new sub-article:

"(4) Any person shall take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible or for which he agrees to look after shall be met to the extent required by good practice and in pursuance to the good health and well-being of the animal. For the purposes of this sub-article, animal needs include the provision of suitable environment, provision of a healthy diet, allowance for the animal to exhibit normal behavioural patterns, provision of suitable housing, segregation from other animals where necessary and protection from pain, suffering, injury and diseases."

Amendment of article 9 of the principal Act.

8. In sub-article (1) of article 9 of the principal Act, for the words "other than for curative purposes, shall be illegal.", there shall

be substituted the words "other than for curative purposes, shall be illegal, unless otherwise prescribed in regulations made under this Act."

9. In sub-article (1) of article 13 of the principal Act, for the words "or another competent person", there shall be substituted the words "or another competent person as specified in regulations made under this Act".

Amendment of article 13 of the principal Act.

10. In sub-article (2) of article 15 of the principal Act, for the word "Director" there shall be substituted the words "Director for Veterinary Services".

Amendment of article 15 of the principal Act.

11. Sub-article (1) of article 17 of the principal Act shall be amended as follows:

Amendment of article 17 of the principal Act.

(a) for the word "Director" there shall be substituted the words "Director for Veterinary Services"; and

(b) the words "on the advice of the Council" shall be deleted.

12. Article 19 of the principal Act shall be amended as follows:

Amendment of article 19 of the principal Act.

(a) for the word "Director" there shall be substituted the words "Director for Veterinary Services"; and

(b) in paragraph (b) thereof, for the words "of the Council" there shall be substituted the words "of the Director for Veterinary Services".

13. In paragraph (c) of sub-article (1) of article 23 of the principal Act, for the word "Director" there shall be substituted the words "Director for Veterinary Services".

Amendment of article 23 of the principal Act.

14. In article 25 of the principal Act, for the word "Director" there shall be substituted the words "Director for Veterinary Services".

Amendment of article 25 of the principal Act.

15. Sub-article (1) of article 26 of the principal Act shall be substituted by the following:

Amendment of article 26 of the principal Act.

"(1) During the transportation of animals, the transporter shall, at all times, carry appropriate documentation issued in accordance with article 23."

Addition of new Part and new articles to the principal Act.

16. Immediately after article 31 of the principal Act, there shall be added the following new Part and new articles:

"Part X A

Circuses

Prohibition of use of animals in circuses.

31A. It shall not be lawful for any person to use animals for performances, exhibitions, shows or for the training thereof in circuses.

Prohibition of promotion of circuses using animals.

31B. It shall not be lawful for any person, including circus operators and circus promoters, to promote, advertise or allow the promotion or advertisement of circuses using animals in Malta.

Contravention or failure to comply with this Part.

31C. If a circus operator or circus promoter contravenes or fails to comply with the provisions of this Part or of any regulations made thereunder, without prejudice to the provisions of Part XIV of this Act, the Director for Veterinary Services shall be authorised to:

(a) order the cancellation of permits or licences for the establishment and operation of circuses in Malta;

(b) order the closure of the circus or part thereof; and

(c) issue any temporary measure as the Director for Veterinary Services may deem necessary to ensure the welfare of animals in circuses, including orders for the treatment, relocation or forfeiture of animals, which temporary orders shall remain in force until such time the Court makes any order under this Act.

Treatment, relocation or forfeiture of animals used in circuses.

31D. Without prejudice to the provisions of Part XIV of this Act, the Court may issue such orders for the treatment, relocation or forfeiture of animals used in circuses or kept for the purpose of use in circuses.

Exemption.

31E. The provisions of this Part shall not apply to zoos licensed under this Act on the grounds that the exemption does not jeopardise the objectives of the provisions of this Act.

Power of Minister to make regulations.

31F. The Minister may make regulations to provide for the enforcement of any restriction imposed on the use of animals in circuses referred to in this Act."

17. In sub-article (1) of article 32 of the principal Act, for the words "on the advice of the Council", there shall be substituted the words "on the advice of the Council, in conjunction with the Director for Veterinary Services,".

Amendment of article 32 of the principal Act.

18. In paragraph (b) of sub-article (3) of article 37 of the principal Act, for the words "for a continuous period of one year." there shall be substituted the words "for a continuous period of one year;", and immediately thereafter there shall be added the following new paragraph:

Amendment of article 37 of the principal Act.

"(c) the person for whom the licence is issued has been found guilty of an offence under this Act or an offence affecting public trust."

19. Sub-article (2) of article 43 of the principal Act shall be substituted by the following:

Amendment of article 43 of the principal Act.

"(2) Save as may otherwise be prescribed, aggressive animals shall not be kept in stock and may be slaughtered or culled if this is deemed to be necessary or expedient by the Director for Veterinary Services or Director for Animal Welfare."

20. For the heading of Part XIII of the principal Act there shall be substituted the following:

Substitution of heading of Part XIII of the principal Act.

"Commissioner for Animal Welfare and
Animal Welfare Officers".

21. Article 44 of the principal Act shall be substituted by the following:

Substitution of article 44 of the principal Act.

"44. (1) The Minister may make regulations to provide for and to regulate the duties and powers of officials, hereinafter referred to as "animal welfare officers".

(2) Without prejudice to the provisions of sub-article (1), every member of the Malta Police Force and any local warden shall, by virtue of his office, be deemed to be an animal welfare officer appointed to act generally for the purposes of this Act.

(3) Animal welfare officers shall act under the direction of the Director for Animal Welfare in the exercise and performance of their powers, duties, and functions conferred or imposed upon them under this Act."

Addition of new
article to the
principal Act.

22. Immediately after article 44 of the principal Act there shall be added the following new article:

"Commissioner
for Animal
Welfare.

44A. (1) There shall be a Commissioner for Animal Welfare who shall be appointed by the Prime Minister after consultation with the Minister.

(2) The Commissioner shall have the following functions:

(a) promote the implementation of and compliance with the provisions of this Act;

(b) promote and advocate for animal welfare and the highest standards of health, keeping and treatment of animals;

(c) promote educational campaigns and social dialogue on issues relating to animal welfare;

(d) cooperate and make arrangements with entities or persons interested in animal welfare to enable him to better monitor the implementation of and compliance with the provisions of this Act;

(e) to make recommendations to the Minister and the Council on the making of standards, guidelines and regulations relating to animal welfare;

(f) review and investigate, either out of his own motion or following a complaint received by him, the functions and workings of the Council, the Directorate of Veterinary Services, or the Directorate responsible for Animal Welfare;

(g) prepare and publish a report of the findings in any formal investigation and shall include in it such recommendations and redress as appears to be necessary or expedient; and

(h) the performance of such other functions as may from time to time be assigned to the Commissioner by the Minister.

(3) No person shall be qualified to hold the office of Commissioner if such person:

(a) is a Member of the House of Representatives; or

(b) is serving as a judge or magistrate; or

(c) is legally incapacitated or interdicted; or

(d) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Malta, or has made a composition or arrangement with his creditors; or

(e) is interdicted or incapacitated for any mental infirmity or for prodigality by a court in Malta, or is otherwise determined to be of unsound mind; or

(f) has been convicted of a crime affecting public trust or theft or fraud, or of knowingly receiving property obtained by theft or fraud, or an offence against this Act or regulations made thereunder.

(4) The Minister may make regulations generally concerning the office of the Commissioner."

23. Immediately after article 44A of the principal Act, there shall be added the following new Part and new article:

Addition of new Part and new article to the principal Act.

"Part XIII A

Enforcement Powers

Enforcement powers.

44B. (1) Notwithstanding the provisions of any other law, for the purposes of carrying out their functions under this Act, the Director for Veterinary Services, the Director for Animal Welfare, animal welfare officers or any such officer or person as may be authorised by the Director for Veterinary Services or Director for Animal Welfare, shall have the right to:

(a) enter any premises, public or private, at all reasonable times, and in the case of a dwelling house after giving reasonable notice of at least twenty-four hours, to inspect, detect and investigate any offence under this Act which has been or is likely to be committed, to collect evidence and, without prejudice to the generality of the powers to examine under this Act, such persons shall have the power to examine any animal, food, medicine, structure, animal housing system, enclosure, vehicle, station, documents, equipment or laboratory. Any person entering any premises in pursuance to this sub-article shall produce his authority or his identity prior to or upon entering such premises;

(b) seize any animal which has been subject or likely to be subject to ill treatment or in relation to which an offence under this Act has been or is likely to be committed and to forfeit, seal off and render non-functional any equipment, apparatus or materials used in offences;

(c) inspect all records, licences, permits and notifications issued under this Act or required to be kept or preserved under this Act;

(d) carry out inspections, elevate samples, take photographs, film, video recording or electronic image in order to verify compliance with this Act or any conditions subject to which a licence or permit is issued under this Act;

(e) be furnished with such information as such person may reasonably require with respect to any matter regulated by this Act;

(f) monitor any activity, elevate samples, take photographs, a film, video recording or electronic image in pursuance to any investigations of offences under this Act; and

(g) generally ensure compliance with the provisions of this Act.

(2) For the purpose of performance of any functions under this Act, the Director for Veterinary Services, Director for Animal Welfare, animal welfare officers or any other such officer or person as may be authorised by the Director for Veterinary Services or Director for Animal Welfare may request the assistance of the Malta Police Force, any local council, any department of Government or any agency of Government.

(3) The provisions of sub-article (1) shall be without prejudice to the powers of the Police, local wardens, the Comptroller of Customs, the Director for Veterinary Services or of any other authority under the Criminal Code or other law.

Cap. 9.

(4) The Director for Veterinary Services, the Director for Animal Welfare, animal welfare officers or any other officers appointed or authorised under this Act shall, notwithstanding any other law, have the right to assist the Police in the conduct of prosecution under this Act or regulations made thereunder and to plead the case before the court.

(5) Any person who hinders, obstructs, molests or interferes with or attempts to hinder, obstruct, molest or interfere with the Director for Veterinary Services, Director for Animal Welfare, any animal welfare officer or such other person appointed by the Director for Veterinary Services or Director for Animal Welfare, or any officer of the Malta Police Force, local warden, or public officer, employee or servant of any department of Government or of any Government agency in the execution of duties under this Act or regulations made thereunder or fails to comply with any reasonable requirement demanded of him by any such person as aforesaid or otherwise to assist him in the carrying out the said duties, or who knowingly furnishes such person with false or misleading information or neglects or refuses to give any information required for the purpose of the aforesaid shall be guilty of an offence under this Act."

Substitution of
article 45 of the
principal Act.

24. Article 45 of the principal Act shall be substituted by the following:

"45. (1) Any person who acts in violation of this Act or in breach of regulations made thereunder shall:

(a) on first conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1,000) but not exceeding fifty five thousand euro (€55,000) or to a term of imprisonment for a period not exceeding three years or to both such fine and imprisonment;

(b) on a second or subsequent conviction, be liable to a fine (*multa*) of not less than five thousand euro (€5,000) but not exceeding eighty thousand euro (€80,000) or to a term of imprisonment for a period not exceeding three years or to both such fine and imprisonment.

(2) The liability of an offender under sub-article (1) shall be without prejudice to the powers of the Director for Veterinary Services, Director for Animal Welfare or any other officer to suspend or revoke any licence, permit or authorisation issued under this Act or any regulations made thereunder.

(3) Without prejudice to the provisions of sub-article (1), any person found guilty of committing an offence under this Act may, in addition to the penalties prescribed under the last foregoing sub-article, be ordered by the Court to pay for any expenses incurred for the treatment, relocation or forfeiture of animals from any place in Malta, the revocation of any permits issued for the operation of any activity regulated under this Act and for other reasonable expenses as the Court may deem fit.

(4) The provisions of this Act shall be without prejudice to any criminal proceedings or any other proceedings that may be instituted under other laws."

Amendment of
article 46 of the
principal Act.

25. In article 46 of the principal Act, for the words "fifty-eight thousand two hundred and thirty-four euro and thirty-three cents (58,234.33)" there shall be substituted the words "eighty thousand euro (€80,000)".

Amendment of
article 47 of the
principal Act.

26. Article 47 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the word "Director" there shall be substituted the words "Director for Veterinary

Services or Director for Animal Welfare";

(b) in paragraph (c) of sub-article (2) thereof, for the word "Director" there shall be substituted the words "Director for Veterinary Services or Director for Animal Welfare";

(c) in sub-article (3) and in its paragraph (a) thereof, for the word "Director" there shall be substituted the words "Director for Veterinary Services or Director for Animal Welfare";

(d) in sub-article (4) and in its paragraph (b) thereof, for the word "Director" there shall be substituted the words "Director for Veterinary Services or Director for Animal Welfare";

(e) in sub-article (5) thereof, for the word "Director" there shall be substituted the words "Director for Veterinary Services or Director for Animal Welfare";

(f) sub-article (7) thereof shall be deleted;

(g) sub-article (8) thereof shall be renumbered as sub-article (7) thereof; and

(h) in sub-article (7) thereof, as renumbered, for the word "Director" there shall be substituted the words "Director for Veterinary Services or Director for Animal Welfare".

27. In sub-articles (1), (3), (4) and (6) of article 49 of the principal Act, for the word "Director", wherever it occurs, there shall be substituted the words "Director for Veterinary Services or Director for Animal Welfare".

Amendment of
article 49 of the
principal Act.

Passed by the House of Representatives at Sitting No. 187 of the 15th October, 2014.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

