

## CAP 169 PREVENTION OF CRUELTY TO ANIMALS ORDINANCE

Long Title

To prohibit and punish cruelty to animals.

[29 November 1935]

(Originally 44 of 1935 (Cap 169 1950))

### Short title

This Ordinance may be cited as the Prevention of Cruelty to Animals Ordinance.

### 2. Interpretation

In this Ordinance, unless the context otherwise requires-

"animal" (動物) includes any mammal, bird, reptile, amphibian, fish or any other vertebrate or invertebrate whether wild or tame; (Replaced 53 of 1979 s. 2)

"health inspector" (衛生督察) has the meaning assigned by section 2 of the Public Health and Municipal Services Ordinance (Cap 132); (Added 30 of 1960 Eighth Schedule. Amended 10 of 1986 s. 32)

"health officer" (衛生主任) has the meaning assigned by section 3 of the Interpretation and General Clauses Ordinance (Cap 1); (Added 30 of 1960 Eighth Schedule)

"senior veterinary officer" (高級獸醫官) includes any veterinary officer authorized by the Director of Agriculture, Fisheries and Conservation to perform the duties of a senior veterinary officer under this Ordinance; (Replaced 53 of 1979 s. 2. Amended L.N. 331 of 1999)

"vessel" (船隻) includes any ship or boat or any other description of vessel used in navigation.  
(Amended 30 of 1960 Eighth Schedule)

### 3. Penalty for cruelty to animals

- (1) Any person who-
  - (a) cruelly beats, kicks, ill-treats, over-rides, over-drives, overloads, tortures, infuriates, or terrifies any animal, or causes or procures or, being the owner, permits any animal to be so used, or, by wantonly or unreasonably doing or omitting to do any act, causes any unnecessary suffering or, being the owner, permits any unnecessary suffering to be so caused to any animal; or
  - (b) being in charge of any animal in confinement or captivity or in the course of transport from one place to another, neglects to supply such animal with sufficient food and sufficient fresh water; or
  - (c) 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 or in a case, crate or basket of such construction or such small dimensions as to subject it to unnecessary pain or suffering; or

(d) loads any animal into or discharges any animal from any vessel or railway truck on to another vessel or railway truck or on to a wharf or on to the shore, or on to any platform in such a way or with such appliances as to subject such animal to needless or avoidable suffering;

or

(e) causes, procures or assists at the fighting or baiting of any animal, or keeps, uses, manages, or acts or assists in the management of any premises or place for the purpose, or partly for the purpose, of fighting or baiting any animal, or permits any premises or place to be so kept, managed or used, or receives, or causes or procures any person to receive, money for the admission of any person to such premises or place;

or

(f) employs, or causes or procures or, being the owner, permits to be employed, in any work or labour any animal which, in consequence of any disease, infirmity, wound or sore, or otherwise, is unfit to be so employed; or

(g) brings into Hong Kong, or drives, carries, transports, removes, or has or keeps, or knowingly suffers to be had or kept under his control or on his premises, any animal in any way which may cause it needless or avoidable suffering, (Amended 65 of 1999 s. 3)

shall be liable on summary conviction to a fine of \$200000 and to imprisonment for 3 years. (Amended 22 of 1950 Schedule; 53 of 1979 s.3; 23 of 2006 s. 2)

(2) For the purposes of this section, an owner shall be deemed to have permitted cruelty if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefor: Provided that where an owner is convicted of permitting cruelty within the meaning of this Ordinance by reason only of his having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3) Nothing in this section shall apply to the commission or omission of any act in the course of the destruction, or the preparation for destruction, of any animal as food for mankind, unless such destruction or such preparation was accompanied by the infliction of unnecessary suffering.

#### **4. Power of arrests, seizure, entry and search**

(1) Any senior veterinary officer, any other officer of the Agriculture, Fisheries and Conservation Department of the grade of Field Officer II and above and authorized in writing by the Director of Agriculture, Fisheries and Conservation, health officer, health inspector or police officer may arrest without warrant any person who he has reason to believe is guilty of an offence against section 3 or against any regulation under this Ordinance, whether upon his own view thereof or upon the complaint and information of any other person. Any such other person shall declare his name and place of abode to any such officer or inspector. (Amended 53 of 1979 s. 4; L.N. 331 of 1999)

(1A) (a) Any person (hereinafter referred to as an arrested person) who is arrested under this section by a person other than a police officer, shall forthwith be taken to the nearest police station or given into the custody of a police officer.

(b) Whenever an arrested person is brought to a police station the provisions of section 52 of the Police Force Ordinance (Cap 232) shall apply.

(c) Whenever an arrested person is given into the custody of a police officer the provisions of sections 51 and 52 of the Police Force Ordinance (Cap 232) shall apply. (Added 53 of 1979 s. 4)

(2) Any animal, conveyance or article concerning or by which any such offence has been committed may be seized by any such officer or inspector and taken to a police station or to any convenient place, and there kept, unless given up sooner by order of a magistrate, until the charge is decided in due course of law.

(3) Any such officer or inspector may stop in any street or public place and examine any animal in respect of which he suspects that an offence has been committed under section 3.

(4) Any senior veterinary officer, health officer, health inspector or police officer may enter and search any building, vehicle, train, tram, aircraft or vessel in or on board of which such officer or inspector may have reason to suspect that any offence against any of the provisions of this Ordinance or of any regulation made thereunder is being or has been committed. (Amended 53 of 1979 s. 4; 80 of 1997 s. 102)  
(Amended 30 of 1960 Eighth Schedule)

## **5. Orders by magistrate**

(1) When any person has been convicted of an offence under section 3 or of any regulations made under this Ordinance, the magistrate may order that any animal in respect of which the offence has been committed-

(a) shall not be used; or

(b) shall be removed to and detained in such place and for such time as is stated in the order.

(2) Any order that an animal shall not be used or shall be detained in any place may, instead of stating any period of time, direct that the animal shall not be used or shall be detained until it recovers, and such animal shall not be used or shall be detained, as the case may be, until a senior veterinary officer certifies in writing that it may properly be used or released.

(2A) (a) If the owner of any animal is convicted of an offence under section 3 the magistrate may, in addition to any other penalty or order he may impose or make, make an order depriving such owner of the ownership of the animal and may make such order as to the disposal of the animal as he may think fit.

(b) No order shall be made under paragraph (a) unless it is shown by evidence as to a previous conviction or as to the character of the owner that the animal, if left with the owner, is likely to be exposed to further cruelty. (Added 53 of 1979 s.5) [cf. 1911 c.27 s.3 U.K.]

(3) If any animal has been taken to any place in pursuance of an order made under this section any person who has been convicted of an offence in respect of such animal shall be liable to pay the prescribed fees for its maintenance and treatment for so long as it shall remain therein, and such fees may be recovered as a fine:

Provided that, if the owner of any such animal shall request the officer in charge of the animal to destroy it, such officer shall forthwith cause the animal to be destroyed, and no fees shall be payable in respect of the maintenance or treatment of such animal for any time subsequent to such request.

(4) Any person who acts in contravention of any order made under this section shall be liable on summary conviction to a fine of \$200000 and to imprisonment for 3 years. (Amended 22 of 1950 Schedule ; 53 of

1979 s.5; 23 of 2006 s. 3)

## **6. Power to order destruction of animals**

Any magistrate, senior veterinary officer, health officer, health inspector, government medical officer, or police officer not below the rank of inspector who has satisfied himself by personal inspection-

- (a) that an animal is so severely injured that it is cruel to keep the animal alive; or
- (b) that an animal is so severely injured or in such a physical condition that in his opinion, having regard to the means available for removing the animal, there is no possibility of removing it without cruelty and that it is cruel to keep it alive; or
- (c) that an animal, whether injured or otherwise, is trapped in such a position as to render it impracticable to effect a rescue and it is contrary to public health or safety to keep it alive or that an animal is trapped in such a position that there is no possibility of removing it without cruelty and it is cruel to keep it alive, (Added 53 of 1979 s.6. Amended 80 of 1997 s. 102)

may by order in writing direct such animal to be destroyed, and such order may forthwith be carried out by or under the direction of such officer or inspector or of any police officer:

Provided that if any such animal is in any house, stable, shed or enclosure proper for such animal and not in a street, or other public place, no such order shall be made until the owner of the animal (if present) or the person in charge thereof (if any) has been informed of the state of the animal.

(Amended 30 of 1960 Eighth Schedule)

## **7. Compensation not payable**

No compensation shall be payable to any person in respect of the destruction of any animal in pursuance of an order made under section 6, or in compliance with a request as provided in section 5(3), by any person professing to be the owner of such animal, provided in the latter case that the officer in charge of the animal in good faith believed that the person making the request was in fact the owner.

## **8. Power to make regulations**

(1) For the purpose of preventing cruelty the Chief Executive in Council may make regulations prescribing the conditions under which animals may be kept in confinement in any place, vessel, train, tram, aircraft or vehicle, including the licensing, construction and proper sanitary maintenance of any such place. (Amended 65 of 1999 s. 3; 16 of 1939 s.2; 22 of 1950 Schedule; 53 of 1979 s.7; 23 of 2006 s. 4)

(1A) Regulations made under subsection (1) may provide that a contravention of a specified provision of the regulations is an offence punishable by a fine not exceeding level 5 and, in the case of a continuing offence, a further fine not exceeding \$200 for every day during which the offence continues. (Added 23 of 2006 s. 4)

(2) The master of any vessel shall (in addition to the actual offender) be deemed to be guilty of any contravention of any regulation

which may occur while he is on board his ship and shall be liable to be proceeded against and punished accordingly.