

ANIMALS PROTECTION ACT 71 OF 1962

[ASSENTED TO 16 JUNE 1962] [DATE OF COMMENCEMENT: 1
DECEMBER 1962]

(Signed by the President)

as amended by

General Law Amendment Act 102 of 1972

[with effect from 5 July, 1972 - see title General Law Amendment Act]

Animals Protection Amendment Act 7 of 1972

ACT

To consolidate and amend the laws relating to the prevention of cruelty to animals.

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[a71y1962s1]1 Definitions

In this Act, unless the context otherwise indicates-

"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

"Minister" means the Minister of Justice;

"owner", in relation to an animal, includes any person having the possession, charge, custody or control of that animal;

"police officer" includes a member of any force established under any law for the carrying out of police powers, duties or functions;

"veterinarian" means a person registered as such under the Veterinary Act, 1933 (Act 16 of 1933).

[a71y1962s2]2 Offences in respect of animals

(1) Any person who-

(a) overloads, overdrives, overrides, ill-treats, neglects, infuriates, tortures or maims or cruelly beats, kicks, goads, terrifies any animal; or

(b) confines, chains, tethers or secures any animal unnecessarily or under such conditions or in such a manner or position as to cause that animal unnecessary suffering or in any place which affords inadequate space, ventilation, light, protection or shelter from heat, cold or weather; or

- (c) unnecessarily starves or under-feeds or denies water or food to any animal; or
- (d) lays or exposes any poison or any poisoned fluid or edible matter or infectious agents except for the destruction of vermin or marauding domestic animals or without taking reasonable precautions to prevent injury or disease being caused to animals; or
- (e) being the owner of any animal, deliberately or negligently keeps such animal in a dirty or parasitic condition or allows it to become infested with external parasites or fails to render or procure veterinary or other medical treatment or attention which he is able to render or procure for any such animal in need of such treatment or attention, whether through disease, injury, delivery of young or any other cause, or fails to destroy or cause to be destroyed any such animal which is so seriously injured or diseased or in such a physical condition that to prolong its life would be cruel and would cause such animal unnecessary suffering; or
- (f) uses on or attaches to any animal any equipment, appliance or vehicle which causes or will cause injury to such animal or which is loaded, used or attached in such a manner as will cause such animal to be injured or to become diseased or to suffer unnecessarily; or
- (g) save for the purpose of training hounds maintained by a duly established and registered vermin club in the destruction of vermin, liberates any animal in such manner or place as to expose it to immediate attack or danger of attack by other animals or by wild animals, or baits or provokes any animal or incites any animal to attack another animal; or
- (h) liberates any bird in such manner as to expose it to immediate attack or danger of attack by animals, wild animals or wild birds; or
- (i) drives or uses any animal which is so diseased or so injured or in such a physical condition that it is unfit to be driven or to do any work; or
- (j) lays any trap or other device for the purpose of capturing or destroying any animal, wild animal or wild bird the destruction of which is not proved to be necessary for the protection of property or for the prevention of the spread of disease; or
- (k) having laid any such trap or other device fails either himself or through some competent person to inspect and clear such trap or device at least once each day; or
- (l) except under the authority of a permit issued by the magistrate of the district concerned, sells any trap or other device intended for the capture of any animal, including any wild animal (not being a rodent) or wild bird, to any person who is not a bona fide farmer; or
- (m) conveys or carries any animal-
 - (i) under such conditions or in such a manner or position as to cause that animal unnecessary suffering; or
 - (ii) in conditions affording inadequate shelter, light or ventilation or in which such animal is excessively exposed to heat, cold, weather, sun, rain or dust; or
 - (iii) without making adequate provision for suitable food, portable water and rest for such animal in circumstances where it is necessary; or

(n) without reasonable cause administers to any animal any poisonous or injurious drug or substance; or

(o)

[Para (o) deleted by sec 2 of Act 42 of 1993.]

(p) being the owner of any animal, deliberately or without reasonable cause or excuse, abandons it, whether permanently or not, in circumstances likely to cause that animal unnecessary suffering; or

(q) causes, procures or assists in the commission or omission of any of the aforesaid acts or, being the owner of any animal, permits the commission or omission of any such act; or

(r) by wantonly or unreasonably or negligently doing or omitting to do any act or causing or procuring the commission or omission of any act, causes any unnecessary suffering to any animal; or

(s) kills any animal in contravention of a prohibition in terms of a notice published in the Gazette under subsection (3) of this section,

[Para (s) inserted by sec 21(b) of Act 102 of 1972.]

shall, subject to the provisions of this Act and any other law, be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding twelve months imprisonment without the option of a fine.

[Subsec (1) amended by sec 3 of Act 54 of 1983, by sec 5 of Act 20 of 1985, by sec 13(c) of Act 7 of 1991 and by sec 2 of Act 33 of 1997.]

(2) For the purposes of subsection (1) the owner of any animal shall be deemed to have permitted or procured the commission or omission of any act in relation to that animal if by the exercise of reasonable care and supervision in respect of that animal he could have prevented the commission or omission of such act.

(3) The Minister may by notice in the Gazette prohibit the killing of an animal specified in the notice with the intention of using the skin or meat or any other part of such animal for commercial purposes.

[Subsec (3) added by sec 21(c) of Act 102 of 1972.]

[a71y1962s2A]2A Animal Fights

(1) Any person who-

(a) possesses, keeps, imports, buys, sells, trains, breeds, or has under his control an animal for the purpose of fighting any other law;

(b) baits or provokes or incites any animal to attack any other animal or to proceed with the fighting of another animal;

(c) for financial gain or as a form of amusement promotes animal fights;

(d) allows any of the acts referred to in paragraphs (a) to (c) to take place on any premises or place in his possession or under his charge or control;

(e) owns, uses or controls any premises or place for the purpose or partly for the purpose of presenting animal fights on any such premises or place or who acts or assists in the management of any such premises or place, or who receives any consideration for the admission of any person to any such premises or place; or

(f) is present as a spectator at any premises or place where any of the acts referred to in paragraphs (a) to (c) is taking place or where preparations are being made for such act,

shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding two years.

(2) In any prosecution in terms subsection (1) it shall be presumed, unless the contrary is proved, that an animal which is found at any premises or place is the property or under the control of the owner of that premises or place, or is the property or under the control of the person who uses or is in control of the premises or place.

(3) Notwithstanding anything to the contrary contained in any law, a magistrate's court shall have jurisdiction to impose any penalty provided for in this section.

[Sec 2A inserted by sec 3 of Act 42 of 1993.]

[a71y1962s3]3 Powers of court

(1) Whenever a person is convicted of an offence in terms of this Act in respect of any animal, the court convicting him may in addition to any punishment imposed upon him in respect of that offence-

- (a) order such animal to be destroyed if in the opinion of the court it would be cruel to keep such animal alive;
- (b) order that the person convicted be deprived of the ownership of such animal;
- (c) declare the person convicted to be unfit to own or be in charge of any animal, or of any animal of a specified kind, for a specified period;
- (d) make any order with regard to such animal as it deems fit to give effect to any order or declaration made under any of the preceding paragraphs.

(2) Any person who is found in possession or in charge of any animal in contravention of a declaration made in terms of paragraph (c) of subsection (1), shall be guilty of an offence and liable on convictions to the penalties prescribed in subsection (1) of section two.

[a71y1962s4]4 Power of court to award damages

(1) Whenever any person is convicted by a magistrate's court of an offence under this Act and it is proved that such person has by the commission of that offence caused loss to any other person or that any other person has as the result of such offence incurred expense in providing necessary veterinary attention or treatment, food or accommodation for any animal in respect of which the offence was committed or in caring for such animal pending the making of an order by the court for the disposal thereof, the court may, on application by such other person or by the person conducting the prosecution acting on the instructions of such other person, summarily enquire into and determine the amount of the loss so caused or expense so incurred and give judgment against the person convicted and in favour of such other person for the amount so determined, but not exceeding an amount of four hundred rand.

[Subsec (1) substituted by sec 6(a) of act 20 of 1985.]

(2) Any such judgment shall have effect as if it had been given in a civil action duly instituted before such court.

(3) The provisions of subsections (1) and (2) shall mutatis mutandis apply in respect of-

(a) any costs incurred in connection with the custody of an animal seized in terms of the Criminal Procedure Act, 1977 (Act 51 of 1977), for the purposes of a prosecution in terms of this Act; and

[Para (a) substituted by sec 9 of Act 7 of 1972 and by sec 6(b) of Act 20 of 1985.]

(b) any costs incurred in connection with the destruction of an animal in terms of an order under paragraph (a) of subsection (1) of section three and the removal and burial or destruction of the carcass.

[a71y1962s5]5 When police officer may destroy any animal

(1) Whenever a police officer is of the opinion that any animal is so diseased or severely injured or in such a physical condition that it ought to be destroyed, he shall, if the owner be absent or refuses to consent to the destruction of the animal, at once summon a veterinarian or, if there is no veterinarian within a reasonable distance, two adult persons whom he considers to be reliable and of sound judgment, and if such veterinarian or adult persons after having duly examined such an animal certify that the animal is so diseased or so severely injured or in such physical condition that it would be cruel to keep it alive, such police officer may without the consent of the owner destroy the animal or cause it to be destroyed with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable.

(2) Any police officer who destroys any animal or causes it to be destroyed in the absence of the owner shall, if such owner's name and address are known, advise him of the destruction, and where the destruction of any animal takes place on any public place or public road shall, subject to the provisions of the Animal Diseases Act, 1984 (Act 35 of 1984), remove the carcass or cause it to be removed therefrom. [Subsec (2) substituted by sec 10 of Act 7 of 1972 and by sec 14 of Act 7 of 1991.]

(3) A veterinarian may in respect of any animal exercise the powers conferred by subsection (1) upon a police officer without summoning another veterinarian, police officer or any other person, and in respect of such exercise of those powers the provisions of subsection (2) shall apply.

(4) Any expenses which may be reasonably incurred by any police officer or veterinarian in carrying out the provisions of this section may be recovered from the owner of the animal in question as a civil debt.

(5) It shall be a defence to an action brought against any person arising out of the destruction of an animal by him or with his authority, to prove that such animal was so severely injured or so diseased or in such a physical condition that it would have been cruel to have kept it alive, and that to summon a police officer or follow the procedure prescribed in this section would have occasioned unreasonable delay and unnecessary suffering to such animal.

[a71y1962s6]6 Poundmaster may recover expenses

Any poundmaster shall be entitled to recover from the owner of any impounded animal any reasonable expenses necessarily incurred by him in rendering or providing veterinary or medical attention for such animal.

[a71y1962s7]7 Owner may be summoned to produce animal for inspection by court

(1) A court trying any person for an alleged offence under this Act may summon the owner of any animal in respect of which such offence is alleged to have

been committed to produce that animal at a time and place stated in the summons for inspection by the court.

(2) Any person who without satisfactory excuse fails to comply with a summons issued in terms of subsection (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in subsection (1) of section two.

[a71y1962s8]8 Powers of officers of society for prevention of cruelty to animals

(1) If authorized thereto by writing under the hand of the magistrate of a district, any officer of any society for the prevention of cruelty to animals may in that district-

(a) without warrant and at any time with the consent of the owner or occupier, or failing such consent on obtaining an order from a magistrate, enter any premises where any animal is kept, for the purpose of examining the conditions under which it is so kept;

(b) without warrant arrest any person who is suspected on reasonable grounds of having committed an offence under this Act, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant;

(c) on the arrest of any person on a charge of an offence under this Act, seize any animal or thing in the possession or custody of that person at the time of the arrest and take it forthwith before a magistrate;

(d) exercise in respect of any animal the powers conferred by subsection (1) of section five upon a police officer and in respect of such exercise of those powers, the provisions of the said section shall mutatis mutandis apply.

(2) Any authority granted under subsection (1) may at any time for good cause be revoked by the magistrate of the district.

(3) An officer to whom authority has been granted under subsection (1) shall, when required to do so in the exercise of his powers, produce that authority for inspection.

(4) Any person who wilfully obstructs, hinders or resists an officer authorized under subsection (1) in the exercise of the powers conferred upon him or conceals any animal or thing with intent to defeat the exercise of such powers, or who upon demand fails to give his name and address to such officer, shall be guilty of an offence and liable on conviction to the penalties set out in subsection (1) of section two.

[a71y1962s9]9 Costs may be awarded against vexatious complainant

If at the trial of any person on a charge of an offence under this Act, the court is satisfied that any person or body has without reasonable cause and vexatiously lodged or caused to be lodged the complaint which led to such trial, it may award costs, including attorney and client costs, on the magistrate's court scale, against such person or body as if the proceedings were civil proceedings between the accused and such person or body.

[a71y1962s10]10 Regulations

(1) The Minister may make regulations relating to-

(a) the method and form of confinement and accommodation of any animal or class, species or variety of animals, whether travelling or stationary;

(b) any other reasonable requirements which may be necessary to prevent cruelty to or suffering of any animal;

(c) the seizure, impounding, custody or confining of any animal due to any condition of such animal, the disposal or destruction of such animal and the recovery of any expenses incurred in connection therewith from the owner of such animal; and

(d) generally such matters as are required for the better carrying out of the objects and purposes of this Act.

(2) Such regulations may prescribe penalties for contravention thereof or failure to comply therewith not exceeding a fine of R4 000 or imprisonment for a period of twelve months.