

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 9th January, 2015

No. LD/Legis-Act/39-5 1/2015. The following Act of Assembly received the assent of the President on the 6th day of January 2015, is hereby published for general information.

(ACT III OF 2015)

An

Act

to provide for prevention of cruelty to animals in the Azad Jammu and Kashmir

WHEREAS, Islam has been declared the State religion of Azad Jammu and Kashmir under Section 3 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, which is a religion of mercy to all living creatures and protects them from suffering due to human actions;

AND WHEREAS, it is necessary to prevent cruelty against domesticated and captured animals and provide them peaceful and friendly atmosphere for their survivals;

It is therefore, enacted as follows:-

1. Short title, Extent and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Prevention of Cruelty to Animals Act, 2014.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant to the subject or context:-

(i) "Animal" means any domestic or captured animal or birds;

(ii) "Cruelty" includes to maliciously and_ intentionally maim, mutilate, torture, or wound a living animal, or maliciously and intentionally kill an animal; or overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink, or shelter, cruelly beat, mutilate, or cruelly kills any animal or cause or procure any animal to be so treated;

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“Code” means the Code of Criminal Procedure, 1898;

“Charge of animal” means custody of animals by a specific person;

“Government” means the Azad Government of The State of Jammu And Kashmir;

“Phooka or doom dev” includes any process of introducing air or any substance into the female organ of a milch animal with the object of drawing off from the animal any secretion of milk;

“Rules” means the Rules made by the Government under this Act;

“Street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access; and

“Veterinary Officer” means the Veterinary Officer appointed by the Government as such.

Duties of persons having charge of animals.- It shall be the

duty of every person having the care or charge of any Animal, whether as owner or otherwise, to ensure the welfare and well-being of such Animal and to prevent the infliction of trauma, pain or suffering upon such Animals. In particular, every such person shall ensure that an animal in his care or under his charge

has,-

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freedom from thirst, hunger and malnutrition,
freedom from discomfort due to environment,
freedom from pain, injury and disease,
freedom to express normal behavior for the species, and
freedom from fear and distress.

Treating animals cruelly.- (1) If any person,-

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beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to trauma, pain or suffering, unnecessarily kills any animal or causes, or, being the owner permits, any animal to be so treated or killed; or

employs in any work or labour or for any purpose any animal without adequate rest, food or water, or which by

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reason of its age or any disease, infirmity, wound, sore or other cause, is unfit to be so employed, or, being the owner, permits any such unfit animal to be employed; or

willfully administers any injurious drug or injurious substance to any animal or willfully causes or attempts to cause any such drug or substance to be taken by any animal; or

conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to trauma, pain or suffering; or

keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for its natural movement; or

keeps any animal chained or tethered with a short or heavy chain or cord, or hobbles the legs of animal; or

being the owner, neglects to exercise or cause to be exercised, or keeps any animal habitually chained up or in close confinement; or

being the owner of any animal fails to provide such animal with sufficient food, drink or shelter; or

abandons any animal in circumstances which render it likely that it will suffer trauma, pain or suffering by reason of relocation, starvation, thirst, injury, or illness; or

willfully or negligently permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, permits any diseased or disabled or injured animal, of which he is the owner, to die in any street; or

offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or

mutilates an animal in any manner including ear cropping, tail docking, de-fanging, declawing, branding, piercing or kills any animal in any manner other than that prescribed by the Board; or

claw solely with a view to providing entertainment—

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(i) confines or causes to be confined any animal
(including tying of an animal as a bait so as to
make it an object of prey for any other animal; or

(ii) incites any animal to fight any other animal or
any human being;

organizes or keeps or uses or participates or acts in the
management of any place for animal fighting, or for the
purpose of baiting any animal, or permits or offers any
place to be so used, contributes or receives consideration
for its promotion or for the admission of any other person
to any place kept or used for any such purposes; or

promotes or takes part in any shooting match or
competition wherein animals are released from captivity
for the purpose of such shooting; or

organizes, participates, promotes or in any manner is
associated with any sport or activity involving the use of
animals, where such animals are subjected to cruelty
either during the sport or activity itself, or while in
training; or

skins or roasts or kills for superstition or extracts parts of
any live animals through a procedure which causes pain
and suffering, for the purpose of getting skins, oils or
other animal products; or

dynamites or electrifies streams or rivers or other water
bodies; or

Electrifies a fence without authority of law, he shall be
punishable in the case of a first offence, with fine which
shall not be less than ten thousand rupees but which may
extend to twenty five thousand rupees, or with
imprisonment up to 2 years, or with both, and in the case
of a second or subsequent offence, with fine which shall
not be less than fifty thousand rupees but may extend to
one lac rupees, and with imprisonment for a term which
shall not be less than one year but may extend to three

years:

Provided that if at a later point in time, the need for

enhancing the penalties prescribed is felt, the Government may, by notification in the Official Gazette and subject to the condition of previous publication, achieve that objective through Rules framed for the purpose.

(2) For the purposes of sub-section (1) an owner shall also be deemed to have committed an offence if he has failed to exercise reasonable care and supervision to prevent such offence;

(3) Nothing in this section shall apply to,-

(a) the dehorning of cattle, or nose roping of cattle, castration of any Animal, provided it is performed by a veterinary surgeon in the prescribed manner; and

(b) 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 preparation was conducted in a manner contrary to any law, rules, regulations, or byelaws for the time being in force, or accompanied by the infliction of unnecessary trauma, pain or suffering.

Penalty for harmful practices etc., phooka or doom dev.- If any person performs any harmful practices upon any cow or other milch animal the operation called phooka or doom dev, or any other mitts such operation, including injection of any substance to improve lactation which is injurious to the health of the animal, or permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which shall not be less than twenty thousand rupees but may extend to fifty thousand rupees, or with imprisonment for one year, or with both for the first offence, and in case of a second or subsequent offence he shall be punishable with fine which shall not be less than seventy five thousand rupees but which may extend to one lakh rupees, and with imprisonment which shall not be less than two years but may extend to five years, and the animal on which the operation was performed shall be forfeited to the Government:

Provided that if at a later point in time, the need for enhancing the penalties prescribed is felt, the Government may, by notification in the Official Gazette and subject to the condition of previous publication, achieve that objective through Rules framed for the purpose.

Penalty for Fishing with poison or any explosive material.- If

any person uses, poison or explosive material for the purpose of fishing, shall be punished with the imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both.

Penalty for overloading Animals.- (1) If any person overloads any Animal, he shall be punished with fine which may extend to five thousands rupees, or with imprisonment for a term which may extend to one month.

(2) If the owner of any animal, or any person who, either as a trader, carrier or contractor or by virtue of his employment by a trader, carrier or contractor, is in possession of, or in control of the loading of, any animal, permits the overloading of such animal, he shall be punished with fine which may extend to ten thousands rupees.

Penalty for killing Animals with unnecessary Cruelty.- If any person kills any Animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to ten thousands rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for employing Animals unfit for _labour.- If any

person employs in any work or labour any Animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to five thousand rupees.

Explanation: For the purposes of Sections 4 or this Section, an owner or other person in possession or control of an Animal shall be deemed to have committed an offence under the aforesaid Sections, if he has failed to exercise reasonable care and supervision with a view to the prevention of such offences.

Treatment and care of Animals.- (1) The Government may, by general or special order, appoint infirmaries for the treatment and care of Animals in respect of which offences against this Act have been committed, and may authorize the detention therein of any Animal pending its production before a Magistrate.

(2) The Magistrate before whom a prosecution for an offence against this Act has been instituted may direct that the animal concerned shall be treated and cared for in an infirmary, until it is fit to perform its usual work or is otherwise fit for discharge, or if the Veterinary Officer in charge of the area in which the animal is found or such other Veterinary Officer, as may be authorized in this behalf by rules made under this Act certifies that it is incurable or cannot be removed without cruelty, it shall be destroyed.

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(3) An animal sent for care and treatment to an infirmary shall not, unless the Magistrate directs that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the Veterinary Officer in charge of the area in which the infirmary is situated or such other Veterinary Officer as may be authorized in this behalf by the Rules made under this Act.

(4) The cost of transporting an animal to an infirmary and of its maintenance and treatment in an infirmary shall be payable by the owner of the animal in accordance with a scale of rates to be prescribed by the District Magistrate:

Provided that when the Magistrate so direct, on account of poverty of the owner of the animal, no charges shall be recoverable for treatment of the animal.

(5) If the owner refuses or neglects to pay such cost or to remove the animal within such time as the Magistrate may prescribe, the Magistrate may direct that the animal be sold and proceeds of the sale be applied for payment of such cost. The surplus, if any, of the proceeds of such sale shall, on application made by the owner within two months from the date of the sale, be paid to him.

Penalty for baiting or inciting Animals to fight.- If any

person,-

(a) incites any Animal to fight; or

(b) baits any Animal; or

(c) aids or abets any such incitement or baiting;

he shall be punished with fine which may extend to fifty thousand rupees or with imprisonment which may extend to three years or with both.

Explanation:- It shall not be an offence under this Section to incite Animals to fight if such fighting is not likely to cause injury or suffering to such Animals and all reasonable precautions are taken to prevent injury or suffering from being so caused.

Penalty for caging birds and Animals.- If any person cages

birds or confines animals, or sells or lets the sale for caging or confining, in a cruel manner, he shall be punished with fine which may extend to ten thousand rupees or with imprisonment which may extend to one year or with both.

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Registration of Livestock farms.- No poultry farm, sheep farm, goat farm, dairy farm and any other livestock farm shall be established unless a license is granted by the District Magistrate who shall, after consultation with the officer incharge of the area of the Animal Husbandry Department that proper arrangements have been provided in such farm for keeping the Animals. Where the District Magistrate is not satisfied with the arrangements provided in the proposed place for the purposes of establishment of poultry farm, sheep farm, goat farm, dairy farm or any other livestock farm, he shall decline the permission.

Penalty for holding fowls and other birds from legs for shifting.- If any person holds the fowls or other birds from their legs for shifting them from one place to other place in such manner that fowls or birds are hung adversely he shall be punished with fine which may extend to ten thousand rupees or with imprisonment of a term which may extend to six months or with both.

Penalty for unnecessary hunting.- Whoever hunts the Animals in the area declared to be protected, shall be dealt in accordance with the provisions of the Azad Jammu and Kashmir, Wildlife (Protection, Preservation, Conservation and Management) Act, 2014.

Penalty for permitting diseased Animals to go at large or to die in public places.- If any person willfully permits any animal

of which he is the owner or is in charge thereof, to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal to die in any street or in any other public place, he shall be punished with fine which may extend to five thousand rupees or with imprisonment which may extend to six months or with both.

Provision of necessary arrangements in animals sale-markets (Mandi Maweshian).- (1) Every person or authority or local council or district council or any other department intending to establish or intending to allow to be held the sale-markets of animals within the area under their supervision and control shall earmark the land for establishment of sale-markets and make necessary arrangements for provision of shade, drinking water

and fodder for animals and necessary arrangements for keeping the proper cleanliness within the area of sale-market.

(2) Before establishment of sale-markets of animals, as referred to in the preceding sub-section, every person or

authority or Local Council or District Council or any other department shall obtain permission from the District Magistrate of the district in which sale-markets are intended to be established who shall carefully examine the necessary arrangements required to be provided under this Act in the sale-markets of animals. Where the District Magistrate is not satisfied with the arrangements provided in the proposed place for sale-market he shall decline the permission.

(3) All auctions made by any person or authority or Local Council or District Council or any other department for holding sale-markets of animals established in contravention of provisions of this section shall be void ab initio, and on receipt of information, the District Magistrate shall close down all such illegal sale-markets forthwith by an order in writing giving reasons and justifications.

(4) Any person, not being a state functionary, who contravenes provisions of this section, shall be punished with fine which may extend to one hundred thousand rupees or with imprisonment which may extend to three years or with both.

(5) Any person, employed in an authority or Local Council or District Council or in any other department, acts on behalf of such authority or Local Council or District Council or in any other department in contravention of provisions of this Section shall, in addition to any proceedings which may be initiated against by such authority or Local Council or District Council or in any other department under the law relating to his service, be punished with fine which may extend to one hundred thousand rupees or with imprisonment which may extend to three years.

(6) Any person who collects money from the vendees of animals, at any place other than the approved sale market of the animals, in the name of tax, fee, duty, charges or any other levies at any rate on the sale-price of the Animals, claiming that such tax or fee or duty or charges were levied by the authority or Local Council or District Council or any other department as referred to in sub-section (1), shall be punished with fine which may extend to fifty thousand rupees or with imprisonment which may extend to two years.

Provision of proper shelves in and covers over the cages.- (1)
All cages used to keep birds or fowls for purposes of the sale, not

prohibited under this Act, shall be provided with the shelves, made of wood or wooden materials or of other seasonal effects resistant materials, and necessary over covers made of tarpaulin

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to save the birds from unnecessary pain which may be caused by effects of seasonal weather.

(2) Whoever, being owner or incharge of the caged birds as referred to in the preceding sub-section, contravenes provisions of this Section shall be punished with fine which may extend to five thousand rupees or with imprisonment which may extend to three months or with both.

Search Warrants.- (1) If a Magistrate of the first or second class, or Station House Officer (SHO) of the area concerned, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against this Act is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorize any police-officer not below the rank of sub-inspector to enter and search the place.

(2) The provisions of the Code relating to searches under that Code shall, mutatis mutandis, apply to a search warrants issued under the preceding sub section (1).

Destruction of suffering Animals.- (1) When any Magistrate of the first class or Sub-Divisional Police Officer (SDPO) has

reason to believe that an offence under this Act has been committed in respect of any Animal, he may direct the immediate destruction of the Animal if in his opinion its sufferings are such as to render such a direction proper.

(2) Any police-officer above the rank of a constable who finds any animal so diseased or so severely injured or in such a physical condition that it cannot, in his opinion, be removed without cruelty, may, if the owner is absent or refuses to consent to the destruction of the Animal, forthwith summon the veterinary officer incharge of the area in which the animal is found and if the Veterinary Officer certifies that the animal is mortally injured or so severely injured or in such a physical condition that its destruction is imperative, the police-officer may, after obtaining orders from a Magistrate, destroy the Animal or cause it to be destroyed.

Saving with respect to religious rites and_usages.- Nothing in this Act shall render it an offence to slaughter or kill any Animal

in a manner required by the religion or religious rites and usages
of any race, sect, tribe or class.

Offences _to be Cognizable.- (1) Notwithstanding anything
contained in the Code all offences punishable with imprisonment

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under this Act shall be cognizable offences within the meaning of that Code.

(2) All offences punishable with imprisonment for three years under this Act shall be non-bailable offences within the meaning of the Code.

Limitation for prosecution.- A prosecution for an offence under this Act shall not be instituted after the expiration of three months from the date of commission of an offence.

Trial of offences.- (1) All offences defined under this Act shall be reported, investigated and tried in accordance with the provisions contained in the Code.

(2) Offences under this Act shall be tried by a Court of the Magistrate of first class.

General_powers of seizure for examination.- Any police-officer above the rank of a constable or any person authorized by

the District Magistrate, in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of an Animal, may, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest Magistrate or by a Veterinary Officer, incharge of the area, and such police- officer or authorized person may, when seizing the animal, require the person incharge thereof to accompany it to the place of examination.

Appeal.- Any person affected from an order of court of original jurisdiction may file an appeal in the court of Sessions within 30 days.

Power to make rules.- (1) The Government may, by notification in the official Gazette, make rules to carry out purposes of this Act.

(2) In particular, and without prejudice to the generality of

the foregoing powers, the Government may make rules:

(a) prescribing the maximum weight of loads to be carried

or drawn by any Animal;

(b) prescribing conditions to prevent the over-crowding of animals;

(c) prescribing the period during which, and the hours between which, buffaloes shall not be used for draught purposes;

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(d) prescribing the purposes to which fines realized under this Act may be applied, including such purposes as the maintenance of infirmaries and veterinary hospitals;

(e) requiring persons owning, or in charge of, premises in which animals are kept or milked to register such premises, to comply with prescribed conditions as to the boundary walls or surroundings of such premises, to permit their inspection for the purpose of ascertaining whether any offence against this Act is being, or has been, committed therein; and

(f) prescribing the manner in which cattle may be impounded in any place appointed for the purpose, so as to secure the provision of adequate space, food and water.

Penalty for violation of rules made under this Act.- If any

person contravenes or abets the contravention of any rule made under this Act, he shall be punished with fine which may extend to ten thousand rupees.

Persons authorized under this Act to be Public Servants.- Every person authorized by the Government or the District Magistrate to perform functions or exercise powers under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Azad Penal Code, 1860 (Act XLV of 1860).

Immunity.- No suit, prosecution or other legal proceeding shall lie against any person who is, or who is deemed to be, a Public Servant within the meaning of Section 21 of the Azad Penal Code, 1860 (Act XLV of 1860), in respect of anything in good faith done or intended to be done under this Act.

Repeal.- The Prevention of Cruelty to Animals Act, 1890 (Act XI of 1890), is hereby repealed.

Sd/-

(Sardar Rashid Kaleem)

Deputy Secretary (Legislation)