

THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1890

(XI of 1890)

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TEXT

'THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1890

(XI of 1890)

[22" March, 1890]

An
Act
for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals;

It is hereby enacted as follows:—

1. Title, extent and commencement, and supersession of other enactments.— (1)

This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(2) This section extends to 'lthe whole of Pakistan]: and the [Provincial Government] may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

(3) When any part of this Act has been extended under sub-section (2) to a local area, the "[Provincial Government] may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local

area, and such whole or part shall cease to have effect accordingly until the [Provincial Government], by a like notification, otherwise directs.

(4) The '[Provincial Government] may cancel or vary a notification under sub-section (2) or sub-section (3).

2. Definitions— In this Act, unless there is something repugnant in the subject or context,—

(1) "animal" means any domestic or captured animal: '[*]

'This Act was published in the Gazette of India, dated: 22 March 1890, pp. 71-72. For Statement of Objects and Reasons, see Gazette of India, 1890, Part V, p. 4; for Report of the Select Committee, see *ibid.*, p. 95, and for proceedings in Council, see *ibid.*, Part VI, pp. 4, 10 and 62.

Substituted for the words "all the Provinces and the Capital of the Federation" by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960); assented to by the President on 7 June 1960; and, was published in the Gazette of Pakistan (Extraordinary), dated: 9 June 1960, pp. 725-845, s. 3 read with the Second Schedule: it came into force on 14 October 1955. They were earlier substituted for the words "the whole of British India" by the Adaptation of Central Acts and Ordinances Order 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article read with Article 4.

'Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

¹Ibid.

Ibid.

^oIbid.

"The word "and" was omitted by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 2.

(2)

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

1

(3)

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.]

13. Penalty for cruelty to animals and for sale of animals killed with unnecessary cruelty.— If any person—

(a)

(b)

(c)

(d)

(e)

overdrives, beats, or otherwise treats any animal so as to subject it to unnecessary pain or suffering, or

binds, keeps, carries or consigns for carriage any animal in such manner or position as to subject it to unnecessary pain or suffering, or

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

offers for sale any dead animal or part of a dead animal which he has reason to believe has been killed in an unnecessarily cruel manner, or

without reasonable cause abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst,

he shall be punished, in the case of a first offence, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month and, in the case of a second or subsequent offence committed within three years of the previous offence, with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.]

[3A. Penalty for overloading animals.— (1) If any person overloads any animal, he shall be punished with fine which may extend to fifty 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 one hundred rupees.]

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[4. Penalty for practising phooka.— (1) If any person performs upon any cow or other

milch animal the operation called phooka or doom dev, or permits such operation to be performed upon any such animal in his possession or under his control, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both, and the animal on which the operation was performed shall be forfeited to Government:

Provided that in the case of a second or subsequent conviction of a person under this section he shall be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to two years.

‘Added *ibid.*

?Substituted *ibid.*, s. 3.

‘Inserted *ibid.*, s. 4.

Substituted by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 5.

(2) A Court may order payment out of any fine imposed under this section of an amount not exceeding one-tenth of the fine to any person other than a police officer or officer of a society or institution concerned with the prevention of cruelty to animals who has given information leading to the conviction.]

5. Penalty for killing animals with unnecessary cruelty anywhere.— If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

BA. Penalty for being in possession of the skin of a goat killed with unnecessary cruelty.— If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.

5B. Presumptions as to possession of the skin of a goat.— If any person is charged with the offence of killing a goat contrary to the provisions of section 5, or with an offence punishable under section 5A and it is proved that such person had in his possession, at the time the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.]

6. Penalty for employing anywhere animals unfit for labour.— i * *) 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 one hundred rupees.

[(2) a

a

(3

(4

) * a 2

(5) * a 2

(6) * * * FF KK KR RR RR RR RO

‘6A. Interpretation.— For the purposes of sections 3A and 6, an owner or other person in possession or control of an animal shall be deemed to have permitted an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence, and, for the purposes of section 4, if he fails to prove that he has exercised such care and supervision.

6B. Treatment and care of animals.— (1) The Provincial 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 authorise the detention therein of any animal pending its production before a Magistrate.

‘Sections 5A and 5B were inserted by the Prevention of Cruelty to Animals (Amendment) Act, 1917 (XIV of 1917), published in the Punjab Gazette, dated: 6 April 1917, p. 84, s. 2.

The expression “(1)” was omitted by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 6.

Omitted *ibid.*

⁴Sections 6A, 6B and 6C were inserted *ibid.*, s. 7.

(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 that it shall be sent to a pinjrapole, or, if the Veterinary Officer in charge of the area in which the animal is found or such other Veterinary Officer, as may be authorised in this behalf by rules made under section 15 certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed.

(3) An animal sent for care and treatment to an infirmary shall not, unless the Magistrate directs that it shall be sent to a pinjrapole or 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 authorised in this behalf by rules made under section 15.

(4) The cost of transporting an animal to an infirmary or pinjrapole, 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 orders, on account of the poverty of the owner of the animal, no charge shall be payable for the treatment of the animal.

(5) If the owner refuses or neglects to pay such cost or to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) 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.

6C. 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 rupees.

Exception.— [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.]

7. Penalty for permitting diseased animals to go at large or to die in public places.— If any person wilfully permits any animal of which he is the owner '[or is in charge] 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 of which he is the owner 'or is in charge] to die in any street, he shall be punished with fine which may extend to one hundred rupees "[where he is the owner of the animal, or to fifty rupees where he is in charge of but not the owner of the animal].

'The expression "or, in the Presidency-towns, by the Commissioner of Police" was omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

?Inserted by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 8.

Slbid.

Added ibid.

[7A. Special power of search and seizure in respect of certain offences.—‘[(1 J If a police-officer, not below the rank of sub-inspector, has reason to believe that an offence, under section 5 in respect of a goat, is being or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin and any article or thing used or intended to be used in the commission of such offence.]

[(2) If a police officer, not below the rank of sub-inspector, or any person specially authorised by the Provincial Government in this behalf has reason to believe that phooka or doom dev has just been or is being performed on any animal within the limits of his jurisdiction, he may enter any place in which he has reason to believe such animal to be, and may seize the animal and produce it for examination by the Veterinary Officer in charge of the area in which the animal is seized.]

8. Search-warrants— (1) If a Magistrate of the first ‘Tor second class, Tr *) 1, Sub-divisional Magistrate, T * *] or District Superintendent of Police, 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 authorise any police-officer [not below the rank of sub-inspector] to enter and search the place.

(2) The provisions of the Code of Criminal Procedure, 1882" relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search

under sub-section (1) [or under section 7A].

9. Limitation for prosecutions.— A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

10. Destruction of suffering animals.— "TA)] When any Magistrate, "[* * *] or District Superintendent of Police has reason to believe that an offence against this Act has been

‘Inserted by the Prevention of Cruelty to Animals (Amendment) Act, 1917 (XIV of 1917), published in the Punjab Gazette, dated: 6 April 1917, p. 84, s. 3.

?Renumbered by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India dated: 10 December 1938, pp. 157-161, s. 9.

°Added *ibid.*

4Substituted *ibid.*, for the word “class”, s. 10.

5The words “Presidency Magistrate” were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

®The words “Commissioner of Police” were omitted *ibid.*

"Substituted for the expression "against section 4, section 5 or section 6" by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 10.

®Substituted *ibid.*, for the words "above the rank of a constable", s. 10.

°X of 1882. Now the Code of Criminal Procedure, 1898 (V of 1898).

"added by the Prevention of Cruelty to Animals (Amendment) Act, 1917 (XIV of 1917), published in the Punjab Gazette, dated 6 April 1917, p. 84, s. 4.

'Re-numbered by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 11.

"The words "Commissioner of Police" were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 No. of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

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 in charge 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 desirable, the police officer may, after obtaining orders from a Magistrate, destroy the animal or cause it to be destroyed.]

11. Saving with respect to religious rites and usages.— Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

12. Provision supplementary to section 1 with respect to extent of Act.— Notwithstanding anything in section 1, sections 4 and 13, sections 9 and 10, and sections 6A, 7A, 8 and 15 so far as they relate to offences under section 4] shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

(13. Offence under section 4 to be cognizable— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence punishable under section 4 shall be a cognizable offence within the meaning of that Code.

14. General power of seizure for examination.— Any police officer above the rank of a constable or any person authorised by the Provincial Government in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any 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 such Veterinary Officer as may be designated in this behalf by rules made under section 15; and such police officer or authorised person may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination.

15. Power to make rules.— (1) The Provincial Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial 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;

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

‘Added by the Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), published in the Gazette of India, dated: 10 December 1938, pp. 157-161, s. 11.

Substituted *ibid.*, for the expression “9, 10 and 11”, s. 12.
Sections 13 to 17 were added *ibid.*, s. 13.

(h)

prohibiting the use of any bit or harness involving cruelty;

requiring persons carrying on the business of a farrier to be licensed and registered;

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 section 4 is being, or has been, committed therein, and to expose in such premises copies of section 4 of this Act in a language or languages commonly understood in the locality; and

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.

(3) If any person contravenes, or abets the contravention of, any rule made under this section, he shall be punished with fine which may extend to fifty rupees.

16. Persons authorised under section 14 to be public servants.— Every person authorised by the Provincial Government under section 14 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code’.

17. Indemnity.— 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 Indian Penal Code’, in respect of anything in good faith done or intended to be done

under this Act.]

"XLV of 1860. Now the Pakistan Penal Code because the word "Indian" deemed to be substituted by virtue of its substitution for the word "Pakistan" of the said word in the "short title" of the Indian Penal Code by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

*Ibid.