

WESTERN AUSTRALIA.



ANNO TERTIO

GEORGII QUINTI REGIS,

XIV.

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No. 33 of 1912.

AN ACT for the Prevention of Cruelty to Animals.

[Assented to 10th October, 1912.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Prevention of Cruelty to Animals Act, 1912.* Short title.

2. Section seventy-nine of the Police Act, 1892, is hereby repealed. Repeal.

3. In this Act, unless the context or subject matter otherwise indicates or requires,— Interpretation.

“Animal” means and includes every species of quadruped and every species of bird, whether in a natural or domestic state, and all other animals dependent upon man for their care or sustenance or in a state of captivity;

S.A., No. 956, s. 3.  
N.S.W., No. 64,  
1901, s. 3.  
Cf. Q., No. 26,  
1901, ss. 3, 4.

“Constable” means and includes police officer, police constable, and special constable.

“Ill-treat” includes wound, mutilate, overdrive, override, overwork, abuse, worry, torment, and torture; also knowingly overload and knowingly overcrowd, and unreasonably, wantonly, or maliciously beat or cause unnecessary pain;

“Justice” means justice of the peace;

“Magistrate” means a police or resident magistrate;

“Vehicle” means and includes every description of cart, wagon, truck, barrow, carriage, or other conveyance.

**Ill-treating animals.**

S.A., No. 956, s. 4.

N.S.W., No. 64, 1901, s. 4.

Cf. Q., No. 26, 1901, s. 4.

4. (1.) Any person who—
- (a.) Ill-treats, or causes or procures to be ill-treated, any animal; or
  - (b.) Wantonly or negligently fails to supply any animal with proper and sufficient food, or water, or as regards animals other than those running at large, or on a journey, with sufficient protection against inclement weather; or
  - (c.) Keeps, or uses, or acts in the management of any place for the purpose of fighting or baiting any animal, or permits or suffers any place to be so used; or
  - (d.) Receives money for the admission of any other person to any place kept or used for the purpose of fighting or baiting any animal; or
  - (e.) Incites any animal to fight, or baits any animal, or encourages, aids, or assists at the fighting or baiting of any animal; or
  - (f.) Conveys, carries, or packs, or causes to be conveyed, carried, or packed, whether in or upon any vehicle or not, any animal in such a manner or position as to subject such animal to unnecessary pain or suffering; or
  - (g.) Slaughters, or causes to be slaughtered, any animal in such a manner as to subject such animal to unnecessary pain or suffering; or
  - (h.) Knowingly or wantonly rides, drives, uses, conveys, carries, or packs any animal which is unfit for such use or treatment; or
  - (i.) Connives with another in doing any of the above acts,
- shall, on conviction, be liable to a penalty not exceeding ten pounds.

(2.) An additional penalty of five pounds may, on such conviction, be imposed for every day on which an offence committed under clause (c) or (d) of subsection one of this section is continued.

(3.) Any person who by ill-treating any animal, or inciting any animal to fight, does damage or injury to such animal, or thereby causes damage or injury to be done to any person or property, shall, in addition to such penalty, pay to the owner of such animal (if the offender is not the owner thereof), or the person who sustains damage or injury as aforesaid, such sum of money by way of compensation, as is ascertained and determined by the convicting magistrate or justices: Provided that nothing in this subsection shall take away any other remedy of such owner or any other person in respect of such damage or injury.

Compensation for injury caused to animal, person, or property.  
S.A., No. 956, s. 4 (3).  
Cf. N.Z., No. 24, 1884, s. 8.

(4.) Nothing in this Act shall render unlawful the slaughtering of any animal in any manner which may be necessary to comply with the requirements of the Jewish or other religion.

Exemption.

5. The dehorning of cattle, or the castration, spaying, ear-splitting, ear-marking, or branding of any animal, or the tailing of any lamb, where the operation is performed with a minimum of suffering to the animal operated upon, shall not be deemed an offence under this Act.

Dehorning cattle.  
S.A., No. 956, s. 5.

6. If any person keeping or using or having the management of any place for the purpose of slaughtering any diseased, maimed, or worn out animal, uses or employs, or causes or permits to be used or employed, any such animal brought to or delivered at, or which is in or upon such place for the purpose of being slaughtered, or permits or suffers any such animal to leave the said place to be employed in any manner of work, every such person shall be liable to a penalty not exceeding forty shillings for every day on which such animal is so used or employed or is absent from such place; and any person who uses or employs or is in the possession or custody of any such animal whilst so used or employed shall be liable to a penalty not exceeding forty shillings for every day he uses or employs or is possessed or in the custody of such animal as aforesaid.

Penalty for using or employing animal condemned to be slaughtered.  
S.A., No. 956, s. 6.

7. (1.) If any constable is of opinion that any animal is unfit to be used in work or labour, or in work or labour of any particular kind, he may, by notice signed by him and indorsed by a justice and delivered to any person, direct that such animal is not to be used in work or labour, or in work or labour of the kind specified in such notice, for any time stated therein, not exceeding three weeks.

Power to prohibit use of animal unfit for work.  
S.A., No. 956, s. 7.

(2.) At the expiration of such time, or of the time specified in any notice under this subsection, any constable, if of opinion that such animal is unfit to be used as aforesaid, may, by notice signed and indorsed as aforesaid and delivered to any person, direct that such animal is not to be used in work or labour, or in work or labour of the kind specified in the last mentioned notice, for any further time stated therein, not exceeding three weeks.

Extension of prohibition.

Penalty.

(3.) If the person to whom any notice under subsection one or two of this section is delivered, or any person who has notice thereof, uses such animal or permits it to be used in any work or labour, or in work or labour of the kind specified in such notice (as the case may be) during the time specified in such notice, he shall be liable, upon conviction, to a penalty not exceeding five pounds.

Application for removal of prohibition.

(4.) Upon information in writing made to any justice by any person who alleges in such information that he is injured by the operation of any notice under subsection one or two of this section, and that such animal is not unfit to be used as specified in the notice, such justice shall issue his summons calling upon the constable who signed the notice to appear, at a time and place therein named, and show cause why the notice should not be annulled. At the time and place so named such information may be heard by any magistrate or two justices, who may in their discretion annul, vary, confirm, or extend (as to time or kinds of work or labour) the operation of the notice, but shall not, unless satisfied that the notice was delivered frivolously or maliciously, give any costs against such constable.

Constable may inspect saleyards, etc.

S.A., No. 956, s. 8.  
N.Z., No. 24, 1884, s. 10.

8. Any constable may enter at any time into any saleyard or place where animals are usually sold or kept for the purposes of sale, and may inspect any animal found therein, and the accommodation for such animals. Any person hindering such constable from so entering and inspecting shall be liable, on conviction, to a penalty not exceeding ten pounds.

Apprehension.  
S.A., No. 956, s. 9.

N.S.W., No. 64, 1901, s. 8.  
N.Z., No. 24, 1884, s. 11.

9. (1.) Any constable may, upon his own view of the commission of an offence under this Act, or at the instance of any other person who declares that he or she has seen an offence under this Act committed, and gives his or her name and place of abode to the constable, lay a complaint against the offender for the purpose of the offender being dealt with according to law.

(2.) Any justice may, without previously issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence under this Act whenever good grounds for so doing shall be stated on oath before such justice.

Limitation of time within which information or complaint laid or made.

S.A., No. 956, s. 10.

10. Every complaint in respect of an offence against this Act shall be laid or made within thirty days after the cause of offence or complaint arose.

Vehicles, animals, etc., may be detained.

S.A., No. 956, s. 11.  
N.S.W., No. 64, 1901, s. 10 (1).  
Q., No. 26, 1901, s. 11.

11. (1.) Whenever a constable arrests any person having charge of any vehicle or animal or both for an offence against the provisions of this Act he may take charge of such vehicle or animal or both, and any saddle and harness on or attached to such animal or vehicle, and deposit the same in some place of safe cus-

tody as security for payment of any penalty to which such person or the owner of such vehicle or animal may become liable, and the expenses which have been or may be necessarily incurred for taking charge of and keeping the same.

(2.) The magistrate or justices who hear the case may, in default of payment, order such vehicle or animal or saddle or harness, or any or all of them, to be sold for the purpose of satisfying such penalty and reasonable expenses in like manner as if the said vehicle, animal, saddle, and harness had been subject to be distrained, and had been distrained upon for the payment of such penalty and expenses.

Sale in default of payment.

12. Any magistrate may appoint, in writing under his hand, any officer, agent, or servant of any society for the prevention of cruelty to animals to be a special constable to act for such time and within such limits as are appointed, and such special constable shall, during such time and within such limits, have, exercise, and enjoy, for the purposes of this Act only, all such powers, authorities, advantages, and immunities, and be liable to all such duties and responsibilities, as any constable of the Police Force of Western Australia.

Special constable may be appointed. S.A., No. 956, s. 12. N.Z., No. 24, 1884, s. 14.

Provided, however, that such appointment may be cancelled at any time by the appointing magistrate or by the Attorney General.

Provided also that a special constable so appointed shall not be a member of the Police Force.

13. (1.) If it shall be made to appear to any justice by personal inspection, or by the testimony of a competent witness, that any animal impounded in any pound or found elsewhere is in such a weak, disabled, or diseased state that it ought to be killed, it shall be lawful for him, by writing under his hand, to order that the said animal shall be forthwith killed; and such order shall be sufficient authority to the poundkeeper or owner of such animal, or any other person authorised by the said justice, to kill the same, and no compensation whatever shall be recoverable in respect of such killing.

Killing of animals. S.A., No. 956, s. 13. N.Z., No. 24, 1884, s. 13. Cf. Q., No. 26, 1901, s. 9.

(2.) Whenever, in the opinion of a constable, any animal is so weak, disabled, or diseased, or as the result of an accident, or from any other cause, sustains such injuries that its recovery is impossible, such constable may, upon obtaining the order of a justice or the consent of the owner, immediately kill such animal, and no compensation whatever shall be recoverable against such justice or constable in respect of such killing.

Powers of constable in case of accident, etc. S.A., No. 956, s. 13 (2).

14. Whenever it is by the oath of any credible person made to appear to the satisfaction of a magistrate or two justices that an offence against this Act has been, or is being, or is about to

Inspection of premises. S.A., No. 956, s. 14.

N.S.W., No. 64, 1901, s. 11.

be committed on or in any premises, such magistrate or justices may, by writing under his or their hand, authorise such person or some constable named therein to enter upon or into such premises and inspect any animal confined or kept there.

Obstructing constable.  
S.A., No. 956,  
s. 15.

15. Whosoever, at any time or in any manner, unlawfully obstructs, hinders, molests, or assaults any constable or other person whilst in the exercise of any power or authority under or by virtue of this Act shall, on conviction, be liable to a penalty not exceeding ten pounds.

Proprietors of vehicles to be summoned to produce their servants.  
S.A., No. 956,  
s. 16.

16. (1.) Whenever a complaint is made against the driver or conductor of any vehicle, whether licensed or otherwise, for any offence against the provisions of this Act, the justice before whom such complaint is made may forthwith summon the proprietor or owner of such carriage or vehicle to produce before him the driver, conductor, or other servant by whom the offence was committed, or is alleged to have been committed, to answer the complaint.

Case may be heard in absence of driver.

(2.) If such proprietor or owner, after being duly summoned, fails without reasonable excuse to produce such driver, conductor, or servant, the magistrate or justices before whom such driver, conductor, or servant is required to be produced may proceed, in the absence of such driver, conductor, or servant, to hear and determine the case in the same manner as if he had been produced, and to adjudge payment by the proprietor or owner of any penalty or sum of money and costs in which the driver, conductor, or servant is convicted.

Recovery from servant of sum paid.

(3.) Any sum of money so paid by the proprietor or owner may, upon proof of payment thereof, and of such driver, conductor, or servant refusing or neglecting to be produced pursuant to the order of the magistrate or justices, be recovered in a summary way from the driver, conductor, or servant through whose default such sum has been paid, in the same manner as a penalty.

Penalty on proprietor for not producing his servant.

(4.) The magistrate or justices may, if such proprietor or owner fails to produce his driver, conductor, or servant without reasonable excuse, impose a penalty of forty shillings upon such proprietor or owner, and may also direct a further summons to issue against him under subsection one of this section, whereupon the same consequences shall follow as upon the first summons so issued, including power upon the hearing of each successive summons to issue a further summons, until such driver, conductor, or servant is produced.

Power to provide food to neglected animals.

17. (1.) If any animal is at any time impounded, or confined in any yard, pen, cage, hutch, pound, or receptacle of the like

nature, or deprived of its liberty and continues impounded, confined, or restrained without fit and sufficient food and water for more than twenty-four consecutive hours, it shall be lawful for any person whomsoever to enter into and upon any yard or other premises, or any pound, or other receptacle of a like nature in which such animal is so confined, and to supply such animal with fit and sufficient food and water during so long a time as it remains and continues so impounded, confined, or restrained, without being liable to any action of trespass or other proceeding by any person whomsoever for or by reason of such entry for the purposes aforesaid.

S.A. No. 956,  
s. 17.  
Q., No. 26, 1901,  
s. 8.

(2.) The reasonable cost of such food and water shall be paid by the owner of such animal to the person who has supplied the same, and such cost may be recovered by complaint before a magistrate or two justices.

(3.) This section shall not apply, except as hereinafter provided, to animals carried in railway trucks.

(4.) The Governor may make regulations determining the duties and liabilities of the Commissioner of Railways and of persons employed on or about Government Railways, and of the owners, managers, and employees of or on other railways with regard to supplying animals carried on the Government or other railways with proper and sufficient food and water, and rendering the owners of such animals liable for the reasonable cost of any food or water supplied.

18. (1.) Whenever any person (hereinafter called "the defendant") is charged on complaint with knowingly or wantonly riding, driving, using, conveying, carrying, or packing any animal which was unfit for such use or treatment, or with an offence under section seven, and the defendant desires to claim that the alleged acts were done or permitted, if at all, in the course of his employment by his master, the defendant may serve, or cause to be served, upon the person who he intends to allege was his master (hereinafter called "the alleged master") a notice in writing stating the particulars of the charge and the time and place fixed for the hearing of the complaint.

Master to be liable  
when offence com-  
mitted by his ser-  
vant after notice  
to master.  
S.A. No. 997,  
s. 3.

(2.) When such notice has been served, the alleged master shall for all purposes be deemed to be charged on the complaint with the offence alleged therein as well as the defendant, and to have been duly served therewith.

(3.) If at the hearing of the complaint or any adjournment thereof the magistrate or justices find the offence proved, the magistrate or justices—

(a.) Shall, if it is shown to his or their satisfaction—

(i.) That the defendant was at the time of the commission of the offence the servant of the alleged master, and that the acts constituting the offence were done or permitted by the defendant in the course of his employment as such servant; and

(ii.) That the defendant before committing the offence called the attention of the alleged master to the fact that the animal in respect of which it was committed was unfit for the use or treatment constituting the offence, or to the fact that notice under section seven had been delivered directing that such animal was not to be used, according to the nature of the case,

find the alleged master guilty of the offence and may discharge the defendant; but otherwise—

(b.) Shall find the defendant guilty of the offence.

(4.) If on the hearing of the complaint it appears—

(i.) That the alleged master caused or permitted the act constituting the offence; and

(ii.) That the defendant before committing the offence called the alleged master's attention to either of the facts mentioned in subdivision two of subsection three,

the magistrate or justices may, at the request of the defendant, cause notice to be served on the alleged master, requiring his attendance at an adjourned hearing. Upon such adjournment the magistrate or justices shall, if satisfied that the matters mentioned in subdivisions one and two of this subsection are proved, and that the offence is proved, find the alleged master guilty and discharge the defendant.

(5.) In any case in which an alleged master appears before the magistrate or justices pursuant to notice served under this section, if the alleged master is found guilty, the magistrate or justices may order him to pay the defendant's costs, but otherwise may, if of opinion that the notice was served without reasonable ground, order the defendant to pay the alleged master's costs: Provided that the fact that the alleged master is not found guilty shall not of itself be taken to show that the notice was served without reasonable ground: Provided, also, that the powers given by this subsection are in addition to any other powers as to costs.



19. (1.) Except as hereinafter provided, nothing in this Act contained shall apply to any act done in any of the following cases:—

Exemptions.  
S.A., No. 956,  
s. 18.  
Q., No. 26, 1901,  
s. 12.

- (a.) In the extermination of rabbits, marsupials, wild dogs, foxes, or vermin; or
- (b.) In the extermination or destruction of any animal under the authority of any Act, regulation, or by-law in force for the time being; or
- (c.) In the hunting, snaring, trapping, shooting, or capturing of any animal not in a domestic state; or
- (d.) In any vivisection or other experiment performed on any animal in accordance with regulations made by the Governor for the humane conduct of such experiments, by any person who has (pursuant to such regulations) been duly authorised by the Governor to perform such experiments, and whose authority in this behalf the Governor has not withdrawn.
- (e.) In any operation of the nature of an inoculation or of a feeding experiment.

(2.) The exemption in this section contained shall not take effect—

Conditions of  
exemptions.

- (a.) In any case of ill-treatment; or
- (b.) In any case of vivisection or other experiment as described in subsection (d) wherein the following conditions are neglected, that is to say:—
  - (i.) The operation shall be performed in accordance with the said regulations;
  - (ii.) The animal subject to the operation shall during the whole time thereof be so under the influence of some anæsthetic as to be insensible to pain;
  - (iii.) When the animal has in the course of the operation been so injured that its recovery would involve serious suffering, it shall be destroyed while still insensible.
  - (iv.) An animal which has suffered one operation shall not be subjected to another.

20. (1.) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or as may be necessary or convenient to be prescribed for giving effect to this Act.

Regulations.

(2.) All such regulations shall—

- (a.) Be published in the *Government Gazette*;

(b.) Take effect from the date of such publication, or from a later date to be specified therein; and

(c.) Be laid before both Houses of Parliament within fourteen days after publication, if Parliament be then in session, and if not, then within fourteen days after the commencement of the next session.

(3.) Any regulations made under this Act may prescribe penalties not exceeding in any case the sum of twenty pounds for any infringement of such or other regulations made under this Act.

(4.) Notwithstanding any publication thereof, no regulation shall continue to have any force or effect if the same shall be disapproved, either wholly or in part, by resolution of either House of Parliament within thirty days after such regulations shall have been laid before Parliament, if Parliament shall be so long in session: Provided that if Parliament shall not be in session for thirty days after such regulations shall have been laid before it, then no regulation shall continue to have any force or effect if disapproved by either House of Parliament within thirty days after the commencement of the next session of Parliament.

Procedure.

21. All proceedings in respect of offences against this Act shall be heard and determined under the Justices Act, 1902, or any Act for the time being in force relating to the duties of justices of the peace with respect to summary convictions and orders.