

WESTERN AUSTRALIA.

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## PREVENTION OF CRUELTY TO ANIMALS.

11° Geo. V., No. XXI.

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No. 21 of 1920.

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[As Amended by Acts:

No. 18 of 1948, Assented to 18th November, 1948;

No. 22 of 1958,<sup>1</sup> Assented to 11th November, 1958;

and Reprinted pursuant to the Provisions of the Amendments Incorporation Act, 1938.]

### AN ACT to make provisions for the Prevention of Cruelty to Animals.

[Assented to 31st December, 1920.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the 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, 1920-1958*.

Short title.  
Amended by  
No. 22 of  
1958, s. 1.

2. The Prevention of Cruelty to Animals Act, 1912, is hereby repealed.

Repeal.

3. In this Act, except the context otherwise requires—

Interpreta-  
tion.  
Amended by  
No. 18 of  
1948, s. 3,  
No. 22 of  
1958, s. 3,  
Cr., 1 and 2  
Geo. V.,  
c. 27, s. 15.

(a) the expression "animal" means any domestic or captive animal;

(a) (i) the expression "cruelty" includes, without limiting the scope of the primary meaning thereof, any act or omission referred to in section four of this Act;

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<sup>1</sup> Came into operation on 1st March, 1959; See *Gazette* of 8/3/1959.

*Prevention of Cruelty to Animals.*

- (b) the expression "domestic animal" means any horse, ass, mule, bull, sheep, pig, goat, dog, cat, or fowl, or any other animal of whatsoever kind or species, and whether a quadruped or not, which is tame or which has been or is being sufficiently tamed to serve some purpose for the use of man;
- (c) the expression "captive animal" means any animal (not being a domestic animal) of whatsoever kind or species, and whether a quadruped or not, including any bird, fish or reptile, which is in captivity, or confinement, or which is maimed, pinioned, or subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement;
- (d) the expression "constable" includes any special constable appointed under section fifteen of this Act;
- (e) the expression "court" means any court of summary jurisdiction;
- (f) "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;
- (g) the expression "pound" used in relation to the impounding or confining of animals includes a place of any kind in which animals are confined;
- (h) the expression "owner," when used in reference to an animal, includes, as well as the owner and any person deemed, under section twenty-three, subsection (7) of this Act, to be the owner of the animal, any person who is—
  - (i) joint owner, hirer, borrower, or entitled for the time being to the possession or custody of the animal;

(ii) in any express or implied contractual relationship, whether as employee, agent, bailee or otherwise, with the owner in respect of the animal, and with whose orders the driver, conductor or other person, having the immediate care or custody of the animal is required, pursuant to any express or implied contract of or for service, to comply.

(i) "Society" means The Royal Society for the Prevention of Cruelty to Animals, Western Australia (Incorporated) or The Eastern Goldfields Society for Prevention of Cruelty to Animals (Inc.) or any other society incorporated under the provisions of the Associations Incorporation Act, 1895-1957, and which has for its aims and objects the prevention of cruelty to animals.

4. (1) It shall be an offence against this Act for any person to—

Offences of  
cruelty.  
Cr. No. 33,  
1912, s. 4.  
Amended by  
No. 18 of  
1948, s. 4,  
No. 22 of  
1958, s. 4.

- (a) ill-treat or cause or procure to be ill-treated or be a party to ill-treating any animal; or
- (b) fail to supply any domestic animal or captive animal other than those running at large with proper and sufficient food or water or sufficient protection against inclement weather; or
- (c) keep or use or act in the management of any place where fighting or baiting of any animals is permitted or allowed, or to receive money for the admission of any person to any such place; or
- (d) incite any animal to fight, or bait any other animal, or to encourage, aid, or assist thereat; or

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- (e) convey, carry, or pack, or cause to be conveyed, carried, or packed, any animal in such manner or position as to subject or be likely to subject such animal to unnecessary pain or suffering; or
- (f) needlessly slaughter, or cause to be slaughtered, or needlessly mutilate any animal or subject such animal to unnecessary pain or suffering; or
- (g) ride, drive, use, convey, or carry any animal which is unfit for such use or treatment; or
- (h) neglect, as the owner or person in charge, to reasonably exercise or cause to be exercised, at least once a day, any dog habitually chained up; or
- (i) convey, carry, or pack, or cause to be conveyed, carried, or packed, any poultry together with other poultry which is of different species; or
- (j) administer poison to any animal, or to expose any poisonous substance with the intent that the same shall be taken or swallowed by any animal, or to administer, except for medicinal purposes, any poison, drug, medicine, or noxious substance to any animal entered or about to be entered in any race or upon any racecourse, or to expose any such poison, drug, medicine, or noxious substance with the intention that same shall be taken, swallowed, or inhaled with intent to impede or affect the safety, endurance, sense, health, or physical condition of such an animal or
- (k) sell, offer, expose for sale, or give away or procure any person to do the same or knowingly to be a party to the sale or to sell, expose for sale, or give away any grain or seed which has been rendered poisonous except for *bona fide* use in agriculture; or

Gr. 1 and 2  
Geo. V.,  
c. 27, s. 1.

Gr. 1 and 2  
Geo. V.,  
c. 27, s. 8.

- (l) knowingly put or place upon any land or building, or cause or procure any person to put or place or be a party to the same, any poison or any fluid or edible matter not being sown seed, or grain which has been rendered poisonous; or <sup>*ibid.*</sup>
- (m) shoot pigeons released from traps; or
- (n) knowingly permit cruelty:

Provided in any proceedings under paragraphs (j), (k) and (l) of this section it shall be a defence that the poison was sold or placed by the accused for the purpose of destroying rats, mice, or other vermin, and that the accused took every reasonable precaution to prevent access thereto of dogs, cats, fowls, or other domestic animals.

Maximum penalty: Fifty pounds or six months imprisonment, and an additional penalty of five pounds for every day on which an offence under paragraph (c) is continued.

(2) For the purposes of this section, an owner shall be deemed to have permitted cruelty within the meaning of this Act if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom, or failed to take reasonable steps to prevent the unnecessary suffering of the animal: <sup>*ibid.* s. 1. sub-sec. (2).</sup>

Provided that, where an owner is convicted of permitting cruelty within the meaning of this Act 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.

5. If any person shall, by cruelty within the meaning of this Act to any animal, do or cause to be done any damage or injury to the animal or any person or property, he shall upon conviction for the cruelty under this Act be liable, upon the application of the person aggrieved, to be ordered to pay, as <sup>Compensation for injury caused to animal, person, or property. No. 33, 1912. s.4. sub-sec.(3). Amended by No. 23 of 1958, s. 5.</sup>

compensation to the person who shall sustain damage or injury as aforesaid, such sum as the court before whom he is convicted may consider reasonable:

Provided that this section shall not—

- (a) prevent the taking of any other legal proceedings in respect of any such damage or injury, so that a person be not twice proceeded against in respect of the same claim; nor
- (b) affect the liability of any person to be proceeded against and punished under this Act for an offence of cruelty within the meaning of this Act.

*Exemptions.*  
*Ibid.* s. 4.  
sub-sec. (4)  
and ss. 5  
and 19.

6. (1) Except as hereinafter provided, nothing in this Act shall render unlawful—

- (a) the slaughtering of any animal in any manner which may be necessary to comply with the requirements of the Jewish or other religion; or
- (b) 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; or
- (c) the extermination of rabbits, marsupials, wild or stray dogs or cats, foxes, or vermin; or
- (d) the extermination or destruction of any animal under the authority of any Act, regulation, or by-law in force for the time being; or
- (e) the hunting, snaring, trapping, shooting, or capturing of any animal not in a domestic state; or

- (f) 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; or
- (g) any operation of the nature of an inoculation or of a feeding experiment.

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

- (a) in any case of ill-treatment; or
- (b) in any case of vivisection or other experiment as described in paragraph (f) wherein the following conditions are neglected, that is to say:—
  - (i) the operations 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.

7. (1) If any constable or officer of the Society 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 delivered to any person, direct that such animal is not to be

Power to prohibit use of animal unfit for work.  
*Ibid.* s. 7.  
Amended by No. 18 of 1948, s. 5; No. 22 of 1958, s. 6.

used in work or labour, or in work or labour of the kind specified in such notice, for any time stated therein, not exceeding twenty-one days.

(2) If any court is of a like opinion, the court may cause to be served on the owner or the person in charge of the animal a like notice.

Extension of prohibition.

(3) At the expiration of the period mentioned in any notice so delivered or served, the court or the constable or officer of the Society may in like manner serve or deliver a further notice directing that such animal is not to be so used for a further period of twenty-one days.

Application for removal of prohibition.

(4) Any person in receipt of any such notice, who considers that he is injured or aggrieved thereby, may at any time make application to a court to have the notice annulled or varied, and thereupon the court may summon the constable or officer to show cause to the contrary.

No costs shall be given against a constable or officer of the Society in any such proceedings, unless the court is of opinion that the constable or officer acted without reasonable cause.

Penalty.

(5) Any person who contravenes the provisions of any notice issued in accordance with the provisions of this section and delivered to him or brought to his knowledge shall be guilty of ill-treatment under this Act, and shall be liable to the penalties prescribed in section four hereof.

Constable may inspect saleyards, etc., *Ibid.* s. 8. Amended by No. 22 of 1958, s. 7.

8. Any constable or officer of the Society may enter at any time into any place where animals are usually sold or kept, and may inspect any animal found therein, and the accommodation for such animals. Any person hindering such constable or officer from so doing shall be guilty of an offence against this Act.

Penalty: Twenty-five pounds.

Apprehension. *Ibid.* s. 9.

9. (1) Any constable, 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 such an offence committed, and who gives his or her name and place of abode to the constable may 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.

10. Any constable, without any warrant, at any hour of the day or night, may apprehend any person who shall cruelly or wantonly beat, ill-treat, over-drive, over-load, abuse, or torture any animal, or cause the same to be done; and also any person who shall convey or carry any animal in any street in such manner or position as to cause unnecessary pain or suffering;

Constables and others may arrest without warrant for alleged cruelty. Cf. No. 27, 1892, s. 43.

Provided that this section does not apply to a special constable.

11. Every complaint in respect of an offence against this Act shall be laid or made pursuant to the provisions of the Justices Act, 1902-1942<sup>1</sup>.

Limitation of time within which information or complaint laid or made. Cf. No. 33, 1912, s. 10. Amended by No. 18 of 1948, s. 6.

12. (1) Whenever a constable arrests any person having charge of any vehicle or animal for an offence against this Act he may take possession of such vehicle or animal, and any saddle and harness on or attached to such animal or vehicle, and deposit the same in some place of safe custody for the purpose of producing the same as evidence in a prosecution under this Act, or 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

Vehicles, animals, etc., may be detained. *Ibid.* s. 11. Amended by No. 18 of 1948, s. 7.

<sup>1</sup> Now Justices Act, 1902-1959.

same, and he may in like manner take possession of any thing in possession or under control of the alleged offender with which the offence is reasonably believed by the constable to have been committed.

Sale in  
default of  
payment.

(2) The court which hears the case may, in default of payment, order such vehicle, animal, saddle, or harness, or any of them, to be sold for the purpose of satisfying such penalty and reasonable expenses in like manner as if they had been distrained upon for the payment of such penalty and expenses and may order that any thing with which the offence was committed and of which possession shall have been taken by the constable under the next preceding subsection, shall be destroyed or forfeited to the Crown.

Constable  
under  
certain  
conditions  
may destroy  
injured  
animal.  
Cf. 1 and 2,  
Geo. V.,  
c. 27, s. 11.  
Amended by  
No. 18 of  
1948, s. 8;  
No. 22 of  
1958, s. 8.

13. (1) If a constable or officer of the Society finds any animal so diseased or 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 he shall, if the owner is absent or not being absent refuses to consent to the destruction of the animal, without the consent of the owner, slaughter the animal or cause it to be slaughtered with such instruments or appliances, with such precautions, and in such manner as to inflict as little suffering as practicable, and if the slaughter takes place on any public highway to remove the carcass or cause it to be removed therefrom.

(2) If the constable or the officer is of opinion and so directs that the injured animal can without cruelty be removed, it shall be the duty of the person in charge of the animal to cause it forthwith to be removed with as little suffering as possible, and if that person fails to do so, the constable or officer may, without the consent of that person, cause the animal forthwith to be so removed.

(3) Any expense which may be reasonably incurred by a constable or officer in carrying out the provisions of this section whether the animal is

slaughtered under this section or not, may be recovered from the owner summarily as a civil debt.

(4) No compensation shall be recoverable against any constable, or officer in respect of the killing of an animal under this section.

14. If it shall be made to appear to any justice by personal inspection, or by the testimony of a reliable 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 pound-keeper 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, but the provisions of this section shall not affect the authority of any constable or officer of the Society to kill or remove any animal pursuant to section thirteen of this Act.

Killing of animals.  
*Ibid.*, s. 13.  
Amended by  
No. 18 of  
1948, s. 9;  
No. 22 of  
1958, s. 9.

15. Any magistrate may appoint in writing under his hand, any officer, agent, or servant of the Society 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.  
No. 33, 1912, s. 12.  
Amended by  
No. 22 of  
1958, s. 10.

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.

16. Whenever it appears to the satisfaction of a court on the oath of a reliable witness that an offence against this Act has been, or is being, or is

Inspection of premises.  
*Ibid.*, s. 14.

about to be committed on or in any premises, such court may authorise the deponent or a constable to enter such premises and inspect any animal confined or kept therein.

Obstructing  
constable.  
*Ibid.* s. 15.  
Amended by  
No. 22 of  
1958, s. 11.

17. Any person who unlawfully obstructs, hinders, molests, or assaults any constable or other person who produces an authority whilst in the exercise of any power or authority under or by virtue of this Act shall be guilty of an offence against this Act.

Penalty: Twenty-five pounds.

Employee  
charged with  
offence may  
be acquitted  
and  
employer  
charged.  
*Cf. Ibid.*  
s. 18.

18. Whenever any person, who is an employee or servant, charged with any offence under this Act, proves to the satisfaction of the court that the acts constituting the offence were done or permitted by him in the course of his employment as such employee or servant, and that prior to the commission of the offence he called his employer's attention to the unfitness of the animal for the use or treatment constituting the offence, the court may discharge the defendant or adjourn the hearing and issue a summons against the employer for a like offence. In the event of the employer being found guilty, the court may order him to pay the costs incurred in prosecuting both himself and his servant.

Power to  
provide food  
to neglected  
animals.  
*Ibid.* s. 17.  
Amended by  
No. 18 of  
1948, s. 10.

19. If any animal is at any time impounded, or confined in any pound, or deprived of its liberty and so continues without fit and sufficient food and water, or as regards sick animals without proper treatment for more than twenty-four consecutive hours, it shall be lawful for any person to enter upon any premises, or any pound, and to supply such animal with fit and sufficient food and water and proper treatment during so long a time as it remains and continues so impounded; the reasonable cost of such food, water, and treatment so supplied shall be paid by the owner of such animal to the person who has supplied the same, and may

be recovered as a civil debt in any court of summary jurisdiction, or in the event of the conviction of any person of an offence for failing to supply food, water or treatment the justice convicting may order the person convicted to pay the amount of the reasonable cost thereof, not exceeding twenty pounds, to the person who supplied the same, and payment of the amount may be ordered in addition to any penalty imposed and enforceable as a penalty.

20. (1) Where proceedings are instituted under this Act, against the driver or conductor of any vehicle, it shall be lawful for the court to issue a summons directed to the employer of the driver or conductor, as the case may be, requiring him, if it is in his power so to do, to produce the driver or conductor at the hearing of the case.

Employers and owners to produce drivers of animals and animals if so required. Cr., *Ibid.*, s. 16, and 1 and 2 Geo. V., c. 27, s. 13.

(2) Where proceedings are instituted under this Act, it shall be lawful for the court to issue a summons directed to the owner of the animal requiring him to produce either at, or at any time before, the hearing of the case, as may be stated in the summons, the animal for the inspection of the court if such production is possible without cruelty.

(3) Where a summons is issued under either of the foregoing subsections of this section, and the owner or employer, as the case may be, fails to comply therewith without satisfactory excuse, he shall be liable upon summary conviction to a fine not exceeding five pounds for the first occasion, and not exceeding ten pounds for the second or any subsequent occasion, on which he so fails, and may be required to pay the costs of any adjournment rendered necessary by his failure.

21. If the owner of any animal shall be guilty of cruelty, within the meaning of this Act, to an animal, the court upon his conviction thereof may, if they think fit, in addition to any other punishment, deprive such person of the ownership of the animal, and any similar animals in his possession and make such order as to the disposal of the animal or animals as they think fit under the circumstances:

Power for Court to deprive person convicted of cruelty of ownership of animal. 1 and 2 Geo. V., c. 27, s. 3. Amended by No. 18 of 1948, s. 11.

Provided that no order shall be made under this section unless it is shown by evidence as to a previous conviction, or as to the character of the owner or otherwise, that the animal or animals, if left with the owner, is or are likely to be exposed to further or any cruelty.

Sale and purchase of decrepit animals. Amended by No. 18 of 1948, s. 12; No. 22 of 1953, s. 12.

22. An auctioneer or other person who sells or offers for sale, and any person who buys or attempts to knowingly buy, except for the purpose of slaughter any horse, mule, donkey, or other draught animal which is so old, or permanently diseased, or permanently disabled that it is unfit for work shall be guilty of an offence against this Act.

Penalty: Five pounds.

The production of a certificate from the buyer of any such animal given at the time of sale to the auctioneer or vendor that the animal is being purchased for immediate slaughter shall be a defence to any prosecution of an auctioneer or vendor under this section.

Slaughtering of decrepit animals. Cf. 1 and 2 Geo. V., c. 27, s. 5, and First Schedule. Amended by No. 18 of 1948, s. 13.

23. Every person who is employed in the killing of any animal for the purpose of disposal as food for animals or the killing of decrepit animals shall conform to the following regulations:—

- (1) All animals shall be slaughtered with as little pain as possible within two days from the time they have been delivered to the slaughterer. Any animal which is in pain shall be slaughtered without delay.
- (2) All animals shall be properly fed and watered after they have been delivered to the slaughterer.
- (3) No animal shall be used or employed for any work after it has been delivered to the slaughterer.

- (4) The slaughterer shall enter in a book kept for the purpose such a full and correct description of the colour, marks, and gender of every animal delivered to him as may clearly distinguish and identify same, and the name and address of the person from whom the animal was received. The book shall be produced by him on the order of any court, and he shall allow such book to be inspected and extracts to be made therefrom at all reasonable times by any constable.
- (5) No animal shall be killed in the sight of any other animal awaiting slaughter.
- (6) The slaughterer shall not part with alive, or procure or permit any person to sell or part with alive, any animal that has been delivered to him.
- (7) For the purposes of section three which relates to offences of cruelty, the slaughterer shall be deemed to be the owner of the animal delivered to him, and the animal shall be deemed to have been delivered to him if delivered either to himself or to any person on his behalf at his place of business.

Penalty: Ten pounds.

This section shall not apply to the Zoological Gardens of Western Australia.

24. Any person who sets, or causes or procures to be set, any spring trap, snare, or other device, for the purpose of catching any marsupial, dingo or wild dog, foxes, or vermin, or which is so placed as to be likely to catch any such animal, shall inspect, or cause some competent person to inspect, the trap, snare or other device at reasonable intervals of time,

Inspection  
of traps.  
*Ibid.* s. 10.  
Amended by  
No. 22 of  
1958, s. 13.

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and, if any person shall fail to comply with the provisions of this section, he shall be guilty of an offence under this Act.

Penalty: Five pounds.

Regulations. 25. The Governor may make regulations necessary or convenient for giving effect to this Act.

Procedure 26. All proceedings in respect of offences against this Act shall be heard and determined by a court of summary jurisdiction.