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SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS ACT NO. 169 OF 1993

[ASSENTED TO 8 DECEMBER, 1993] [DATE OF COMMENCEMENT: 17 DECEMBER, 1993]

(English text signed by the Acting State President)

ACT

To provide for control of societies for the prevention of cruelty to animals; and for matters connected therewith.

1. **Definitions.**—In this Act, unless the context otherwise indicates—

"**animal**" means an animal as defined in the Animals Protection Act;

"**Animals Protection Act**" means the Animals Protection Act, 1962 (Act No. 71 of 1962);

"**associated Act**" means—

(*a*) the Performing Animals Protection Act, 1935 (Act No. 24 of 1935);
(*b*) the Medicine and Related Substances Control Act, 1965 (Act No. 101 of 1965);
(*c*) the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982);
(*d*) the Animal Diseases Act, 1984 (Act No. 35 of 1984); or
(*e*) the Abattoir Hygiene Act, 1992 (Act No. 121 of 1992);

"**Association**" means the SPCA National Council of Southern Africa which was incorporated under the Companies Act, 1973 (Act No. 61 of 1973), as an association not for gain;

"**board**" means the board established by section 2 (3);

"**constitution**" means the constitution of the Council referred to in section 4;

"**Council**" means the National Council of Societies for the Prevention of Cruelty to Animals mentioned in section 2 (1);

"**director**" means a director of the board nominated or elected or deemed to be elected in terms of section 2 (3);

"**financial year**" means a year from 1 April in any year to 31 March in the following year;

"**Minister**" means the Minister of Agriculture;

"**ordinary resolution**" means a resolution reduced to writing and passed by the majority of the societies present at a general meeting of the societies convened in terms of the constitution;

"**restricted name**" means an expression referred to in section 8 (1);

"**rules**" means the rules made by the board under section 7;

"**society**" means a society registered or deemed to be registered in terms of section 8;

"**special resolution**" means a resolution reduced to writing and passed by a majority of at least two-thirds of the societies present at a general meeting of the societies convened in terms of the constitution;

"**this Act**" includes the rules and the constitution.

2. Establishment of Council and board and abolition of Association.—(1) There is hereby established a juristic person to be known as the National Council of Societies for the Prevention of Cruelty to Animals (in Afrikaans Nasionale Raad van Dierebeskermingsverenigings).

(2) At the commencement of this Act the Association shall cease to exist.

(3) With a view to the achievement of the objects of the Council its affairs shall be managed and controlled by a board consisting of—

(*a*) directors elected in accordance with the constitution; and

(*b*) a director nominated by the Minister.

(4) The directors of the Association at the commencement of this Act shall be deemed to have been elected in terms of subsection (3) (*a*).

3. Objects of Council.—The objects of the Council are—

(*a*) to determine, control and co-ordinate the policies and standards of societies, in order to promote uniformity;

(*b*) to promote co-operation among societies;

(*c*) to prevent the ill-treatment of animals by promoting their good treatment by man;

(*d*) to promote the interests of societies;

(*e*) to take cognizance of the application of laws affecting animals and societies and to make representations in connection therewith to the appropriate authority;

(*f*) to do all things reasonably necessary for or incidental to the achievement of the objects mentioned in paragraphs (*a*) to (*e*).

4. Constitution of Council.—(1) The board shall frame a constitution for the Council, which shall provide for—

(*a*) amendment thereof;

(*b*) the representation of societies on the board;

(*c*) the quorum for meetings of the board;

(*d*) the voting rights of societies;

(*e*) meetings of societies;

(*f*) alteration in the composition of the board;

(*g*) other matters the regulation of which is necessary for the proper functioning of the Council and the board.

(2) Any amendment of the constitution shall be approved by a special resolution.

(3) (*a*) The constitution and each amendment thereof shall be published in the *Gazette*.

(*b*) An amendment of the constitution shall come into operation on a date 60 days after it was published in the *Gazette*.

(*c*) The board shall, within 30 days after publication in terms of paragraph (*a*), furnish each society with a copy of such constitution or amendment thereof.

(4) (*a*) Copies of the constitution shall be obtainable from the board on payment of the amount determined by the board.

(*b*) The amount so determined shall be a reasonable amount, regard being had to the costs to the board of such a copy.

5. Substitution for Association of Council.—(1) At the commencement of this Act—

(*a*) all the rights and liabilities of the Association shall pass to the Council;

(*b*) the name of the Association shall in every document, including a document in connection with a legal proceeding, be deemed to have been replaced by the name of the Council;

(*c*) agents, representatives and other persons in the employ of the Association shall become agents, representatives and persons in the employ of the Council, as the case may be, on and subject to the same terms and conditions as those which applied between them and the Association at the said commencement;

(*d*) the Registrar of Companies shall deregister the Association in terms of the Companies Act, 1973 (Act No. 61 of 1973).

(2) Any reference in any will or deed of donation to the Association or the SPCA or a society for the prevention of cruelty to animals or any abbreviation or translation thereof which cannot be construed as a reference to a particular society for the prevention of cruelty to animals, shall be deemed to be a reference to the Council.

(3) If the Association was the owner of any immovable property which passed to the Council in terms of this section, the Registrar of Deeds concerned shall at the request of the board make an appropriate endorsement in his registers and on the title deeds in question.

(4) No transfer duty, stamp duty or other tax or fees of office shall be payable by the Council in order to give effect to the provisions of this section.

6. Functions, powers and duties of Council and board.—(1) The Council shall for the purposes of section 8 of the Animals Protection Act be a society for the prevention of cruelty to animals.

(2) In order to perform its functions and to achieve the objects of the Council the board may—

(*a*) subject to the provisions of, and as contemplated in, the Fund-raising Act, 1978 (Act No. 107 of 1978), collect contributions or raise funds country-wide in any lawful manner;

(*b*) receive financial grants from public funds and accept donations and bequests from any person or estate;

(*c*) appoint suitably qualified persons as inspectors and other employees of the Council, as well as agents and representatives, to assist it;

(*d*) confer or impose upon an inspector appointed in terms of paragraph (*c*) such functions, powers and duties as the board may deem necessary, including the powers—

(i) to enter upon any premises or conveyance of a society;

(ii) to examine or test or cause to be examined or tested any animal, material, substance or other article on such premises or conveyance;

(iii) to take samples of any such material, substance or other article;

(iv) to examine and make copies of or extracts from any book or document of a society;

(v) to give written instructions to societies regarding the execution of the board's requirements in terms of this Act;

(vi) to seize any such animal or the whole or any part or quantity of such material, substance or other article, or any such book or document that relates to, or is on reasonable grounds believed by him to relate to, or may afford proof of, the failure of a society to perform its duties or to pursue its objects;

(*e*) defend legal proceedings instituted against the Councils and institute legal proceedings connected with its functions, including such proceedings in an appropriate court of law or prohibit the commission by any person of a particular kind of cruelty to animals, and assist a society in connection with such proceedings against or by it;

(*f*) for or on behalf of the Council purchase or otherwise acquire, or possess or hire, movable and immovable property, and alienate, let, pledge or otherwise encumber such property;

(*g*) spend or invest funds of the Council;

(*h*) from time to time borrow money by way of loans from any source and against the security which the board may deem fit;

(*i*) of itself, or in association with any person, establish a company or acquire an interest in or control over a company;

(*j*) hire or, on payment, provide services;

(*k*) publish information concerning the objects and functions of the Council;

(*l*) produce, process and sell products;

(*m*) approve products or services connected with its functions, and promote the production or supply thereof;

(*n*) co-operate or enter into agreements with any person, institution, government or administration, upon such conditions as may be agreed upon;

(*o*) act as official national representative of societies at all national and international organizations and meetings;

(*p*) appoint committees consisting of directors or directors and other persons or other persons only and delegate to any such committee such of its powers or assign to it such of its duties as it may deem fit;

(*q*) upon payment of such deposit as the board may determine, arbitrate in disputes between societies or between a society and a member of the public, and at its discretion refund such deposit or any part thereof at the conclusion of the arbitration;

(*r*) do everything which in its opinion is conducive to the performance of its functions or the achievement of the objects of the Council or is calculated directly to enhance the value of, or render profitable, the property or rights of the Council.

(3) The board shall not be divested of any power or duty delegated or assigned to a committee in terms of subsection (2) (*p*), and may rescind or vary any decision of a committee.

7. **Rules by board.**—(1) The board may by special resolution make rules as to—

(*a*) the course of conduct to be followed by societies;

(*b*) requirements to be complied with in connection with the advertising of societies, including requirements relating to name-plates, signboards, lectures, interviews, publications in the lay press, printing on letterheads, and the use of any other name, mark or depiction in conjunction with a restricted name;

(*c*) the minimum standards for facilities and services used or provided by a society;

(*d*) the manner in which and the time at which an application for registration in terms of section 8 is to be made, and the application fee which is payable;

(*e*) any matter the regulation of which the board considers necessary or expedient for the achievement or promotion of the objects of the Council or for the exercise of the powers or the performance of the functions and duties of the board.

(2) A rule made in terms of subsection (1) or any amendment or the repeal thereof shall come into operation on a date 30 days after the board has given notice thereof in the *Gazette*.

(3) The board shall furnish every society and every inspector, employee and other officer of the board with a copy of each rule made by it and of each amendment or repeal of a rule, within 30 days after notice thereof has been given in terms of subsection (2).

8. Registration of societies.—(1) No person shall without being registered with the Council use, in connection with any activity performed by him, the expression "Society for the Prevention of Cruelty to Animals" or "Dierebeskermingsvereniging" or any abbreviation thereof or any expression which so closely corresponds thereto that it may be misleading.

(2) A person desiring to be registered with the Council shall apply to the board in the manner and at the time prescribed by the rules, and the application shall be accompanied by the application fee and the documents likewise prescribed.

(3) No person shall be registered in terms of subsection (4) (*b*) (i) if he is a natural person..

(4) The board may—

(*a*) refuse an application for registration if in its opinion such registration would not serve the objects of the Council or if in its opinion there are already sufficient societies serving the area or community likely to be served by the applicant concerned;

(*b*) subject to the provisions of subsections (3) and (5)—

(i) grant any such application on such conditions as it may determine;

(ii) make the continued validity of any such registration subject to such conditions as the board may determine, whether by the imposition of further or new conditions or by the amendment or cancellation of existing conditions;

(*c*) cancel any such registration if the society concerned has contravened or failed to comply with any condition imposed by the board under paragraph (*b*).

(5) Conditions referred to in subsection (4) (*b*) shall relate to the achievement of the objects of the Council, the performance of its functions and duties and the exercise of its powers in terms of this Act.

(6) If the board refuses to grant an application for registration, the applicant concerned shall be notified in writing of the decision in question and of the grounds on which it is based.

(7) If the board has granted an application for registration it shall issue a certificate of registration to the society concerned, and such society shall at all times display a copy thereof at every place where it ordinarily conducts its affairs.

(8) If the board has cancelled a registration certificate it shall cease to be valid and the society concerned shall forthwith return it to the board.

(9) A society registered under subsection (4) (*b*) (i) shall only use an expression referred to in subsection (1) in connection with the performance of its functions for the purposes of this Act, the Animals Protection Act and the associated Acts.

(10) Any society for the prevention of cruelty to animals which is a member of the Association immediately prior to the commencement of this Act, shall for all purposes be deemed to be registered in terms of this section.

9. Functions, powers and duties of society.—(1) A society shall for the purposes of section 8 of the Animals Protection Act be a society for the prevention of cruelty to animals.

(2) A society—

(*a*) shall act in accordance with the course of conduct prescribed by the rules;

(*b*) shall at all times be the holder of a valid authority under the Fund-raising Act, 1978 (Act No. 107 of 1978), when it collects contributions in the Republic for the achievement of its objects;

(*c*) shall cause proper records, statements and accounts to be kept of all its financial affairs and transactions, assets and liabilities in respect of each financial year;

(*d*) shall at the end of each financial year cause such records, statements and accounts to be audited and certified by a person registered as a public accountant and auditor under the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991);

(*e*) shall on or before the last day of July in each year submit to the board a report on its financial affairs of, and activities during, the preceding financial year, accompanied by a copy of its relevant audited and certified records, statements and accounts;

(*f*) shall furnish an inspector appointed under section 6 (2) (*c*) with any information or document at its disposal to assist the board in any investigation conducted by the board;

(*g*) shall permit any representative appointed by the board to accompany any inspector or other officer of the society in the performance of his duties for or on behalf of the society;

(*h*) shall pay timeously its contributions due to the board in terms of this Act;

(*i*) shall co-operate with or permit the board to institute legal proceedings where the society is capable of instituting such proceedings under this Act, the Animals Protection Act or the associated Acts;

(*j*) shall only adopt or apply such memorandum, articles of association, constitution or other founding documents as may previously have been approved by the board in writing in its discretion, or make amendments thereto which have, subject to subsection (3), been so approved;

(*k*) shall use a restricted name only in accordance with the provisions of the rules;

(*l*) may defend legal proceedings instituted against it and institute legal proceedings connected with its functions, including, but not limited to, such proceedings in an appropriate court of law to prohibit the commission by any person of a particular kind of cruelty to animals.

(3) The board shall not refuse to approve in terms of subsection 2 (*j*) an amendment which a society proposes to make so as to provide for its internal conditions or affairs and which is not in conflict with the objects of the society or the Council.

10. Contributions of societies.—(1) Subject to the provisions of subsection (2), an ordinary resolution may determine that financial contributions shall be paid by every society to the board, and determine the amount of such contributions required to be paid by each society and the due date for payment of such contributions.

(2) The said financial contributions shall be determined in accordance with the constitution.

(3) (*a*) Subject to paragraphs (*b*) and (*c*), a society which fails to comply with any provision of this Act shall on demand by the board pay to the board an amount which a special resolution considers to be a fair and reasonable contribution to cover the actual costs which the board had to incur as a result of such failure.

(*b*) The said costs may include legal expenses between the board and its own legal representation as well as the *pro rata* costs of the board as a result of the employment of any inspector, employee or any other officer, or the appointment of any representative of the board, to investigate such failure by such society, or to exercise the board's rights and powers consequent upon such failure.

(*c*) If any award of costs of a court in favour of the board has been complied with by a society, the amount thereof shall be deducted from any amount payable by that society to the board in terms of this subsection.

(*d*) If a court awards costs in favour of a society against the Council, the board shall on demand of such society pay all reasonable expenses of the society over and above the costs awarded by the court.

(4) If the board undertakes any campaign, investigation or proceeding which is of national relevance or is important to the objects of the Council as well as those of the societies or certain societies and the board gives written notice thereof to the societies or the societies concerned, the board may in terms of an ordinary resolution require the societies or any society benefited thereby to pay towards the defrayal of the costs and expenses incurred or to be incurred by the board as a result of that undertaking a contribution determined by the board, which shall be proportional to the contributions of the societies payable in terms of subsection (1).

(5) If a society fails to pay any contribution due by it to the board on the due date for payment thereof, the board may in its discretion require such society to pay interest on the overdue amount at the rate of interest prescribed by the rules, from the due date for payment to the date of payment.

(6) The board may institute legal proceedings to recover from a society any amount due by it to the board.

11. Failure by society.—(1) If a society fails to perform any of its duties in terms of this Act and does not remedy such failure within a period of 30 days after the board has, subject to subsection (2), by written notice to such society, addressed by registered post or delivered to its controlling body, called upon it to cease or remedy such failure, the board may, by a decision of at least two-thirds of the directors and subject to the provisions of subsection (3)—

(*a*) designate a representative or representatives of the board as a member or members on such society's controlling body and order that the society replace a corresponding number of members of its controlling body by the representative or representatives so designated;

(*b*) terminate the membership of, or remove from office, any member, director, committee member, employee or other officer of such society as such, or institute or direct such society to institute disciplinary steps against him, if the board is of the opinion that such member, director, committee member, employee or other officer is responsible for or is the cause of the failure; or

(*c*) cancel the registration of such society.

(2) If during any calendar year the board has already issued two or more notices in terms of subsection (1) to a society, the board shall not be obliged to issue a further such notice calling upon such society to cease or remedy a further failure referred to in subsection (1) and may exercise its rights and powers in terms of subsection (1) without affording such society the opportunity to cease or remedy such failure.

(3) Subject to the provisions of subsection (4), the board shall afford any society allegedly failing to perform its duties in terms of this Act or any member, director, committee member, employee or other officer of such society the opportunity to appear before the board or any committee or subcommittee established by the board for that purpose, or to make written representations to the board or such committee or subcommittee, if such society, member, director, committee member, employee or other officer requests to be allowed to do so before the board acts in terms of subsection (1) (*a*), (*b*) or (*c*).

(4) If a society or any other person fails to submit a request in terms of subsection (3) within a period of 30 days after a relevant written notice in terms of subsection (1), the society shall be deemed to have refused to cease or remedy the failure.

(5) After the board has exercised its rights and powers in terms of subsection (1) (*a*) it may—

(*a*) revoke the designation of a representative or representatives in terms of the said subsection;

(*b*) replace any of the said representatives by representatives or members of the society concerned determined by the board in its discretion; or

(*c*) cancel the registration of such society.

(6) The board may in its discretion, by the institution of legal proceedings against a society, enforce specific performance by it of its duties in terms of this Act.

(7) The provisions of subsection (6) shall not derogate from the rights and powers of the board in terms of the other provisions of this section and may be applied in addition to the exercise of such rights and powers.

12. Dissolution of society.—(1) If the registration of a society is cancelled or a society is for any reason wound up or dissolved or unable to carry on its activities or to achieve its objects, or for any reason any irresolvable deadlock develops in its controlling body, the board may in its discretion—

(*a*) constitute and register another society or designate any other existing society or organization to take over the functions of, and, in particular, to serve the territory and community formerly served by, that society; and

(*b*) transfer to, and vest in, the other society or organization referred to in paragraph (*a*) all the assets, liabilities, rights and duties of that society or burden it therewith, without the rights of third parties being prejudiced thereby; or

(*c*) assume control of that society by the appointment of representatives of the board as directors, committee members, employees or other officers of such society until the board has taken steps in terms of paragraph (*a*).

(2) If the board has not taken any steps in terms of subsection (1) (*a*) within six months after becoming entitled to do so, or if during such period such society has not resolved the deadlock in question or overcome its inability to perform its functions or achieve its objects, such society shall be wound up in accordance with its memorandum, articles of association, constitution or other founding deed, or any other applicable law, whichever may be applicable.

13. Report to Minister.—(1) The board shall within six months after the end of every financial year submit to the Minister a report on the Council's activities and financial affairs in respect of the preceding financial year.

(2) After receipt of the report the Minister may request from the board such further information in connection with the said activities and affairs of the Council as he may deem fit.

14. Limitation of liability.—A director, inspector, employee or other officer or representative of the board shall not be liable in respect of anything done or omitted to be done in good faith in the exercise of a power or the performance of a duty conferred or imposed by or under this Act.

15. Offences and penalties.—(1) Any person who—

(*a*) contravenes or fails to comply with a provision of section 8 (1) or (9);

(*b*) obstructs or hinders the board or any inspector referred to in section 6 (2) (*c*) or any officer of the board in the exercise of its or his powers or the performance of its or his duties or functions under this Act;

(*c*) falsely holds himself out to be an inspector or representative of the board acting under this Act, the Animals Protection Act or an associated Act;

(*d*) refuses or fails to comply with a direction of the Minister referred to in section 16 (*b*) or (*c*),

shall be guilty of an offence.

(2) Any person who is convicted of an offence in terms of this Act shall—

(*a*) in the case of a first conviction of an offence referred to in subsection (1) (*a*), be liable to a fine, or to imprisonment for a period not exceeding two years;

(*b*) in the case of a second or subsequent conviction of an offence mentioned in paragraph (*a*), whether it be the same or some other offence mentioned in that paragraph, be liable to a fine, or to imprisonment for a period not exceeding four years;

(*c*) in the case of a conviction of an offence referred to in subsection (1) (*d*), be liable to a fine, or to imprisonment for a period not exceeding six months; and

(*d*) in the case of a conviction of an offence mentioned in subsection (1) (*b*) or (*c*), be liable to a fine, or to imprisonment for a period not exceeding one year.

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

(4) Any fine paid or recovered in respect of an offence under this Act shall be paid over to the Council.

16. Failure of board.—If for any reason, including the failure or refusal by the directors to attend any meetings or vote thereat concerning the functions of the board, or an irresolvable deadlock among the directors regarding any decision or action concerning the functions of the board, the board is incapable and will not become capable of achieving its objects, performing its duties and exercising its rights and powers in terms of this Act, the Minister may—

(*a*) give a ruling with regard to any dispute or other matter giving rise to such inability on the part of the board with a view to overcoming such inability;

(*b*) give such directions concerning the functions of the board as he may deem fit, including the reconstitution of the board; or

(*c*) direct the transfer of all the assets, liabilities, rights and obligations of the Council to any other juristic person the objects of which substantially correspond to those of the Council and see that it is done.

17. Dissolution of Council.—(1) The board shall in terms of a unanimous resolution by the societies present at a general meeting of the societies convened in terms of the constitution, dissolve the Council.

(2) If the Council is dissolved the provisions of section 16 shall apply *mutatis mutandis*.

18. Lapsing of Act.—If the Minister gives a direction in terms of section 16 (*c*) and the implementation of such direction has been completed, this Act shall lapse.

19. Short title.—This Act shall be called the Societies for the Prevention of Cruelty to Animals Act, 1993.

ANIMALS PROTECTION ACT
NO. 71 OF 1962

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

(*Afrikaans text signed by the State President*)

as amended by

General Law Amendment Act, No. 102 of 1972
[with effect from 5 July, 1972—see title GENERAL LAW AMENDMENT ACTS.]
Animals Protection Amendment Act, No. 7 of 1972
Animals Protection Amendment Act, No. 54 of 1983
Animals Protection Amendment Act, No. 20 of 1985
Animals Protection Second Amendment Act, No. 84 of 1985
Protection of Animals Amendment Act, No. 7 of 1991
Animal Matters Amendment Act, No. 42 of 1993

ACT

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

1. **Definitions.**—In this Act, unless the context otherwise indicates—

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

"**Minister**" means the Minister of Justice;

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

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

"**veterinarian**" means a person registered as such under the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982).

[Definition of "veterinarian" substituted by s. 12 of Act No. 7 of 1991.]

2. **Offences in respect of animals.**—(1) Any person who—

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

[Para. (*a*) substituted by s. 13 (*a*) of Act No. 7 of 1991.]

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

(*c*) unnecessarily starves or under-feeds or denies water or food to any animal; or

(*d*) lays or exposes any poison or any poisoned fluid or edible matter or infectious agents except for the destruction of vermin or marauding domestic animals or without taking reasonable precautions to prevent injury or disease being caused to animals; or

(*e*) being the owner of any animal, deliberately or negligently keeps such animal in a dirty or parasitic condition or allows it to become infested with external parasites or fails to render or procure veterinary or other medical treatment or attention which he is able to render or procure for any such animal in need of such treatment or attention, whether through disease, injury, delivery of young or any other cause, or fails to destroy or cause to be destroyed any such animal which is so seriously injured or diseased or in such a physical condition that to prolong its life would be cruel and would cause such animal unnecessary suffering; or

(*f*) uses on or attaches to any animal any equipment, appliance or vehicle which causes or will cause injury to such animal or which is loaded, used or attached in such a manner as will cause such animal to be injured or to become diseased or to suffer unnecessarily; or

(*g*) save for the purpose of training hounds maintained by a duly established and registered vermin club in the destruction of vermin, liberates any animal in such manner or place as to expose it to immediate attack or danger of attack by other animals or by wild animals, or baits or provokes any animal or incites any animal to attack another animal; or

(*h*) liberates any bird in such manner as to expose it to immediate attack or danger of attack by animals, wild animals or wild birds; or

(*i*) drives or uses any animal which is so diseased or so injured or in such a physical condition that it is unfit to be driven or to do any work; or

(*j*) lays any trap or other device for the purpose of capturing or destroying any animal, wild animal or wild bird the destruction of which is not proved to be necessary for the protection of property or for the prevention of the spread of disease; or

(*k*) having laid any such trap or other device fails either himself or through some competent person to inspect and clear such trap or device at least once each day; or

(*l*) except under the authority of a permit issued by the magistrate of the district concerned, sells any trap or other device intended for the capture of any animal, including any wild animal (not being a rodent) or wild bird, to any person who is not a *bona fide* farmer; or

(*m*) conveys, carries, confines, secures, restrains or tethers any animal—

(i) under such conditions or in such a manner or position or for such a period of time or over such a distance as to cause that animal unnecessary suffering; or

(ii) in conditions affording inadequate shelter, light or ventilation or in which such animal is excessively exposed to heat, cold, weather, sun, rain, dust, exhaust gases or noxious fumes; or

(iii) without making adequate provision for suitable food, potable water and rest for such animal in circumstances where it is necessary; or

[Para. (*m*) substituted by s. 13 (*b*) of Act No. 7 of 1991.]

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

(*o*) . . . . . .

[Para. (*o*) deleted by s. 2 of Act No. 42 of 1992.]

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

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

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

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

[Para. (*s*) inserted by s. 21 (*b*) of Act No. 102 of 1972.]

shall, subject to the provisions of this Act and any other law, be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or in default of payment to imprisonment for a period not exceeding twelve months or to such imprisonment without the option of a fine, or, where any such act or omission is of a wilful and an aggravated nature, to a whipping not exceeding six strokes or to both such a fine and such a whipping or to both such imprisonment without the option of a fine and such a whipping.

[Sub-s. (1) amended by s. 3 of Act No. 54 of 1983, by s. 5 of Act No. 20 of 1985 and by s. 13 (*c*) of Act No. 7 of 1991.]

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

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

[Sub-s. (3) added by s. 21 (*c*) of Act No. 102 of 1972.]

2A. Animal fights.—(1) Any person who—

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

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

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

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

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

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

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

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

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

[S. 2A inserted by s. 3 of Act No. 42 of 1993.]

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

(*a*) order such animal to be destroyed if in the opinion of the court it would be cruel to keep such animal alive;

(*b*) order that the person convicted be deprived of the ownership of such animal;

(*c*) declare the person convicted to be unfit to own or be in charge of any animal, or of any animal of a specified kind, for a specified period;

(*d*) make any order with regard to such animal as it deems fit to give effect to any order or declaration made under any of the preceding paragraphs.

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

4. Power of court to award damages.—(1) Whenever any person is convicted by a magistrate's court of an offence under this Act and it is proved that such person has by the commission of that offence caused loss to any other person or that any other person has as the result of such offence incurred expense in providing necessary veterinary attention or treatment, food or accommodation for any animal in respect of which the offence was committed or in caring for such animal pending the making of an order by the court for the disposal thereof, the court may, on application by such other person or by the person conducting the prosecution acting on the instructions of such other person, summarily enquire into and determine the amount of the loss so caused or expense so incurred and give judgment against the person convicted and in favour of such other person for the amount so determined, but not exceeding an amount of R5 000.

[Sub-s. (1) substituted by s. 6 (*a*) of Act No. 20 of 1985.]

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

(3) The provisions of sub-sections (1) and (2) shall *mutatis mutandis* apply in respect of—

(*a*) any costs incurred in connection with the custody of an animal seized in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), for the purposes of a prosecution in terms of this Act; and

[Para. (*a*) substituted by s. 9 of Act No. 7 of 1972 and by s. 6 (*b*) of Act No. 20 of 1985.]

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

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

(2) Any police officer who destroys any animal or causes it to be destroyed in the absence of the owner shall, if such owner's name and address are known, advise him of the destruction, and where the destruction of any animal takes place on any public place or public road shall, subject to the provisions of the Animal Diseases Act, 1984 (Act No. 35 of 1984), remove the carcass or cause it to be removed therefrom.

[Sub-s. (2) substituted by s. 10 of Act No. 7 of 1972 and by s. 14 of Act No. 7 of 1991.]

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

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

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

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

7. **Owner may be summoned to produce animal for inspection by court.**—(1) A court trying any person for an alleged offence under this Act may summon the owner of any animal in respect of which such offence is alleged to have been committed to produce that animal at a time and place stated in the summons for inspection by the court.

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

8. **Powers of officers of society for prevention of cruelty to animals.**—(1) If authorized thereto by writing under the hand of the magistrate of a district, any officer of any society for the prevention of cruelty to animals may in that district—

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

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

[Para. (*s*) inserted by s. 21 (*b*) of Act No. 102 of 1972.]

shall, subject to the provisions of this Act and any other law, be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or in default of payment to imprisonment for a period not exceeding twelve months or to such imprisonment without the option of a fine, or, where any such act or omission is of a wilful and an aggravated nature, to a whipping not exceeding six strokes or to both such a fine and such a whipping or to both such imprisonment without the option of a fine and such a whipping.

[Sub-s. (1) amended by s. 3 of Act No. 54 of 1983, by s. 5 of Act No. 20 of 1985 and by s. 13 (*c*) of Act No. 7 of 1991.]

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

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

[Sub-s. (3) added by s. 21 (*c*) of Act No. 102 of 1972.]

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

(*a*) order such animal to be destroyed if in the opinion of the court it would be cruel to keep such animal alive;

(*b*) order that the person convicted be deprived of the ownership of such animal;

(*c*) declare the person convicted to be unfit to own or be in charge of any animal, or of any animal of a specified kind, for a specified period;

(*d*) make any order with regard to such animal as it deems fit to give effect to any order or declaration made under any of the preceding paragraphs.

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

4. Power of court to award damages.—(1) Whenever any person is convicted by a magistrate's court of an offence under this Act and it is proved that such person has by the commission of that offence caused loss to any other person or that any other person has as the result of such offence incurred expense in providing necessary veterinary attention or treatment, food or accommodation for any animal in respect of which the offence was committed or in caring for such animal pending the making of an order by the court for the disposal thereof, the court may, on application by such other person or by the person conducting the prosecution acting on the instructions of such other person, summarily enquire into and determine the amount of the loss so caused or expense so incurred and give judgment against the person convicted and in favour of such other person for the amount so determined, but not exceeding an amount of R5 000.

[Sub-s. (1) substituted by s. 6 (*a*) of Act No. 20 of 1985.]

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

(3) The provisions of sub-sections (1) and (2) shall *mutatis mutandis* apply in respect of—

(*a*) any costs incurred in connection with the custody of an animal seized in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), for the purposes of a prosecution in terms of this Act; and

[Para. (*a*) substituted by s. 9 of Act No. 7 of 1972 and by s. 6 (*b*) of Act No. 20 of 1985.]

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

(*c*) on the arrest of any person on a charge of an offence under this Act, seize any animal or thing in the possession or custody of that person at the time of the arrest and take it forthwith to a police officer, who shall deal with it in accordance with the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

[Para. (*c*) substituted by s. 7 of Act No. 20 of 1985.]

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

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

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

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

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

10. Regulations.—(1) The Minister may make regulations relating to—

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

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

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

[Para. (*c*) substituted by s. 1 of Act No. 84 of 1985.]

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

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

[Sub-s. (2) substituted by s. 4 of Act No. 54 of 1983 and by s. 8 of Act No. 20 of 1985 and amended by s. 15 of Act No. 7 of 1991.]

10A. .....

[S. 10A inserted by s. 11 of Act No. 7 of 1972 and repealed by s. 16 of Act No. 7 of 1991.]

11. Repeal of laws.—The Prevention of Cruelty to Animals Act, 1914 (Act No. 8 of 1914), the Prevention of Cruelty to Animals Act, 1914, Amendment Act, 1922 (Act No. 14 of 1922), the Prevention of Cruelty to Animals Act, 1914, Amendment Act, 1928 (Act No. 10 of 1928), and the Prevention of Cruelty to Animals Amendment Act, 1949 (Act No. 28 of 1949), are hereby repealed.

12. Short title and commencement.—This Act shall be called the Animals Protection Act, 1962, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.