

**THE PREVENTION OF CRUELTY TO ANIMALS
ACT, 1890**

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¹ACT No. XI OF 1890

(21st March, 1890)

(As modified up to the 15th December, 1937)

AN ACT

for the Prevention of Cruelty to Animals

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals. It is hereby enacted as follows :—

Title, extent and commencement, and supersession of other enactments.

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

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

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

¹ For Statement of Objects and Reasons See "Gazette of India", 1890, Pt. V., P. 4; for report of the Select Committee, see *ibid.* p. 95, and for Proceedings in Council, see *ibid.* Pt. VI. pp. 4, 10 and 62.

The Act has been declared in force in British Baluchistan by s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913); in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872).

² The portions of s. 2 (except sub-section (2)), section 5 so much of s. 8 as relates to s. 5 and ss. 9 and 11 of this Act have been declared in force in the Anup District by s. 2 and Sch. of the Anup Laws Regulation, 1930 (5 of 1930) and in the Khondma's District by s. 3 and Sch. of the Khondma's Laws Regulation, 1936 (4 of 1936).

These words were substituted for the words "Local Government" by the Government of India (Adaptation of India Laws) Order, 1937.

(4) The ¹(Provincial Government) may cancel or vary Definitions
a notification under sub-section (2) or sub-section (3).

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

- (1) "animal" mean any domestic or captured animal.
- (2) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.
- (3) Phooka or doom dev includes any process of introducing air or any substance into the female organ of a milch animal with the object of drawing off from the animal any secretion of milk.

Amendment
of section 2,
Act XI of
1890.

3. If any person—

- (a) overdrives, beats, or otherwise treats any animal so as to subject it to unnecessary pain or suffering, or
- (b) binds, keeps, carries or consigns for carriage any animal in such manner or position as to subject it to unnecessary pain or suffering, or
- (c) offers for sale or without reasonable cause has in his possession any live animal which is suffering pain by reason of mutilation, starvation, thirst, over-crowding or other ill-treatment, or
- (d) offers for sale any dead animal or part of a dead animal which he has reason to believe has been killed in an unnecessarily cruel manner, or
- (e) without reasonable cause abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst,

Substitution
of new
section for
section 3,
Act XI of
1890.

Penalty for
cruelty to
animals, and
for sale of
animals
killed with
unnecessary
cruelty.

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

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of India Laws) Order, 1937.

3-A. (1) If any person overloads any animal, he shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

Insertion of new section 3-A in Act XI of 1890.

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

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

Substitution of new section 4, Act XI of 1890.

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

Penalty for Practising Phooka.

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

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

Penalty for killing animals with unnecessary cruelty anywhere.

(5-A. If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.)

Penalty for being in possession of the skin of goat killed with unnecessary cruelty.

(5-B. If any person is charged with the offence of killing goat contrary to the provisions of section 5. or

Presumptions as to Possession of the skin of goat.

1 Sections 5A and 5B were inserted by s. 2 of the Prevention of Cruelty to (Amendment) Act, 1917 (14 of 1917).

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

Penalty for employing anywhere animals unfit for labour.

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

Insertion of new sections 6A, 6B and 6C in Act XI of 1890.

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

Interpretation.

6-B. (1) The Provincial Government may, by general or special order, appoint infirmaries for the treatment and care of animals in respect of which offences against this act have been committed, and may authorise the detention therein of any animal pending its production before a Magistrate.

Treatment and care of animals.

(2) The Magistrate before whom a prosecution for an offence against this Act has been instituted may direct that the animal concerned shall be treated and cared for in an infirmary, until it is fit to perform its usual work or is otherwise fit for discharge, or that it shall be sent to a pinjrapole, or, if the Veterinary Officer in charge of the area in which the animal is found or such other Veterinary Officer as may be authorised in this behalf by rules made under section 15 certifies that it is incurable or cannot be removed without cruelty that it shall be destroyed.

(3) An animal sent for care and treatment to an infirmary shall not, unless the magistrate directs that it shall be sent to a pinjrapole or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the Veterinary Officer in charge of the area

in which the infirmary is situated or such other Veterinary Officer as may be authorised in this behalf by rules made under section 15.

(4) The cost of transporting an animal to an infirmary or pinjrapole, and of its maintenance and treatment in an infirmary, shall be payable by the owner of the animal in accordance with a scale of rates to be prescribed by the District Magistrate or, in Presidency-towns, by the Commissioner of Police :

Provided that when the Magistrate so orders, on account of the poverty of the owner of the animal, no charge shall be payable for the treatment of the animal.

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

(6) The surplus, if any, of the proceeds of such sale shall, on application made by the owner within two months from the date of the sale, be paid to him.

6-C. If any person—

- (a) incites any animal to fight, or
- (b) baits any animal, or
- (c) aids or abets any such incitement or baiting, he shall be punished with fine which may extend to fifty rupees.

Penalty for baiting for inciting animals to fight.

Exception—It shall not be an offence under this section to incite animals to fight if such fighting is not likely to cause injury or suffering to such animals and all reasonable precautions are taken to prevent injury or suffering from being so caused.

7. If any person wilfully permits any animal of which he is the owner or is in charge to go at large in any street while the animal is affected with contagious or infectious disease or without reasonable excuse permits any diseased or disabled animal of which he is the owner or is in charge to die in any street, he shall be punished with fine which may extend to one hundred rupees where he is the owner of the animal, or to fifty rupees where he is in charge of but not the owner of the animal.

Penalty for permitting diseased animals to go at large or to die in public places.

Special
power
of search
and seizure
in respect
of certain
offence.

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

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

Search
warrants.

8. (1) If a Magistrate of the first class or second class Presidency Magistrate, Sub-Divisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against this Act is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any police officer not below the rank of sub-inspector to enter and search the place.

X of 1882.

(2) The provisions of the ²Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section ³[(1) (or under section 7-A (1)].

Limitation
for prosecu-
tions.

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

Destruction
of suffering
animals.

10. (1) When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper.

1. S. 7-A inserted by S. 3 of the Prevention of Cruelty to Animals (Amendment) Act, 1917 (14 of 1917).

2 See now the Code of Criminal Procedure, 1898 (Act of 1898).

3 Added by S. 4 of the Prevention of Cruelty to Animals (Amendment) Act, 1917 (14 of 1917).

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

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

Saving with respect to religious rites and usages.

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

Provision supplementary to section 1 with respect to extent of Act.

13. Notwithstanding anything contained in the Code of Criminal Procedure, 1890, an offence punishable under section 4 shall be cognizable offence within the meaning of that Code.

Offence under section 4 to be cognizable.

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

General power of seizure for examination

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

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make rules—

- (a) Prescribing the maximum weight of loads to be carried or drawn by any animals;
- (b) prescribing conditions to prevent the overcrowding of animals;
- (c) prescribing the period during which, and the hours between which buffaloes shall not be used for draught purposes;
- (d) prescribing the purposes to which fines realised under this Act may be applied, including such purposes as the maintenance of infirmaries, pinjrapoles, and Veterinary Hospitals;
- (e) prohibiting the use of any bit or harness involving cruelty;
- (f) requiring persons carrying on the business of a farrier to be licensed and registered;
- (g) requiring persons owing, or in charge of, premises in which animals are kept or milked to register such premises, to comply with prescribed conditions as to the boundary walls or surrounding of such premises, to permit their inspection for the purpose of ascertaining whether any offence against section 4 is being or has been committed therein, and to expose in such premises copies of section 4 of this Act in a language or languages commonly understood in the locality; and
- (h) prescribing the manner in which cattle may be impounded in any place appointed for the purpose, so as to secure the provision of adequate space, food and water.

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

Persons authorised under section 14 to be public servants.

16. Every person authorised by the Provincial Government under section 14 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1850

Indemnity.

17. No suit, prosecution or other legal proceeding shall lie against any person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything in good faith done or intended to be done under this Act. XLV of 1850