

## **DRAFT ANIMAL WELFARE ACT 2011**

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# THE ANIMAL WELFARE ACT, 2011

An Act to provide for the welfare and wellbeing of animals, and to prevent the infliction of trauma, torture, pain or suffering on them, and to prevent unnecessary killing of animals, and for that purpose to consolidate the law relating to prevention of cruelty to animals and providing for their welfare generally.

Be it enacted by Parliament in the \_\_\_\_\_ of the Republic of India as follows:

## CHAPTER I PRELIMINARY

**1. Short title, extent and commencement:** (1) This Act may be called the Animal Welfare Act, 2011.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions:** In this Act, unless the context otherwise requires,

(a) “animal” means any living creature other than a human being;

(b) “Animal Welfare Organisation” means an animal welfare organization which is registered with and recognized by the Animal Welfare Board of India;

(c) “Board” means the Animal Welfare Board of India established under Section 4, and reconstituted from time to time under Section 6;

(d) “captive animal” means any animal (not being a domestic animal) which is in captivity or confinement, whether permanent or temporary, or which is subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement or which is pinioned or which is or appears to be maimed for preventing its escape;

(e) “domestic animal” means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is intended to be so tamed, is or has become in fact wholly or partly tamed;

(f) “local authority” means a municipal committee, district board, Cantonment Board or any other authority for the time being invested by

law with the control and administration of any matters within a specified local area;

(g) "Incurably Ill Animal" means an animal that is fatally wounded or sick beyond recovery as certified by an independent veterinarian and/or Society for the Prevention of Cruelty to Animals (SPCA) or Animal Welfare Organisation;

(h) "Institution" would include an individual or any other institution or person on whose behalf any experiment is to be conducted;

(i) "owner", used with reference to an animal, includes not only the first owner but also any other person for the time being in possession or custody of the animal, whether with or without the consent of the first owner;

(j) "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;

(k) "prescribed" means prescribed by Rules made under this Act;

(l) "Performing Animal" means an animal which is used at or for the purpose of any entertainment, display, sport, cinematograph film and animal performances and shows like equine events, and dog shows;

(m) "Prescribed Authority" means the Animal Welfare Board of India or such other authority or officer as may be authorized by the Board;

(n) "Society for Prevention of Cruelty to Animals (SPCA)" means a society established for animal welfare generally, and for the prevention of cruelty, pain or suffering to animals in particular, and includes a SPCA recognized under the Act;

(o) "State Animal Welfare Board" means the Board constituted by the State Government under the provisions of Chapter III of the Act;

(p) "Stray animal" includes abandoned, unfed and ownerless unadopted animals or animals in respect of which no claim of ownership is made, excluding wild animals as defined in the Wildlife Protection Act 1972 (53 of 1972);

(q) "street" includes any way, road, lane, avenue, square, court, alley, passage, or open space, whether a thoroughfare or not to which the public have access.

(r) "unnecessary" shall mean the acts declared unnecessary from time to time by the Animal Welfare Board of India by way of a gazetted notification.

**3. Duties of persons having charge of animals:** It shall be the duty of every person having the care or charge of any animal, whether as owner or otherwise, to ensure the welfare and well-being of such animal and to prevent the infliction of trauma, torture, pain or suffering upon such animals. In particular, every such person shall ensure that an animal in his care or under his charge has:

- i. Freedom from thirst, hunger and malnutrition,
- ii. Freedom from discomfort due to environment,
- iii. Freedom from pain, injury and disease,
- iv. Freedom to express normal behaviour for the species,
- v. Freedom from fear and distress.

## **CHAPTER II ANIMAL WELFARE BOARD OF INDIA**

**4. Animal Welfare Board of India:** (1) For the promotion of animal welfare and wellbeing generally and to prevent the infliction of trauma, torture, pain or suffering on animals, and to prevent unnecessary killing, and to provide for their welfare and wellbeing, there shall be established by the Central Government, a Board to be called the Animal Welfare Board of India.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and may by its name sue and be sued.

**5. Constitution of the Board:** (1) The Board shall consist of the following persons, namely:

- (a) the Director General of Forests, Government of India, ex-officio;
- (b) the Animal Husbandry Commissioner to the Government of India, ex-officio;
- (c) Threefour persons to represent respectively the Ministries of the Central Government dealing with Home Affairs, Health, and Education, and Social Justice and Empowerment to be appointed by the Central Government;
- (d) one person to represent the National Board offor Wild Life, to be appointed by the National Board for Wild Life;

(e) three persons who, in the opinion of the Central Government, are or have been actively engaged in honorary animal welfare work and are well-known humanitarians for at least a decade, to be nominated by the Central Government;

(f) Member Secretary of the Central Zoo Authority, ex-officio;

(g) one person to represent Veterinary Council of India to be nominated by the Veterinary Council of India;

(h) two persons to represent practitioners of modern and indigenous systems of medicine, to be nominated by the Central Government;

(i) one person to represent each of such two municipal corporations as in the opinion of the Central Government ought to be represented on the Board, to be elected by each of the said corporations in the prescribed manner;

(j) one person to represent each of such threetwo organizations actively interested in animal welfare rights as in the opinion of the Central Government ought to be represented on the Board, to be chosen by each of the said organizations in the prescribed manner.

(k) one person to represent each of such threefour societies dealing with welfare and prevention of cruelty to animals as in the opinion of the Central Government ought to be represented on the Board, to be chosen, in the prescribed manner;

(l) threelone persons to be nominated by the Central Government;

(m) Three persons to represent the State Animal Welfare Boards, to be nominated by the Central Government on the recommendation of the state governments;

(n) sixthree Members of Parliament, fourtwo to be elected by the House of the People (Lok Sabha) and twoone by the Council of States (Rajya Sabha).

(2) Any of the persons referred to in clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (1) may depute any other person to attend any of the meetings of the Board.

(3) The Central Government shall nominate one of the members of the Board to be its Chairman and another member of the Board to be its Vice-Chairman. They shall be chosen from (e), (j), (k) or (m) categories.

(4) No one connected with animal exploitation or products like meat, leather, training, animal lab, etc. will be appointed as a Member of the Board.

**6. Reconstitution of the Board:** (1) The Central Government may, by notification in the Official Gazette, reconstitute the Animal Welfare Board of India after the enactment of this Act.

(2) The Board as reconstituted under sub-section (1) shall be reconstituted from time to time **within six weeks** on the expiration of every third year, from the date of its reconstitution under sub-section (1).

(3) Notwithstanding expiration of three year period as in sub-section (2) above the Board shall continue to function as such till such times as a new Board is constituted by The Central Government.

**7. Term of office and conditions of service of Members of the Board:** (1) The term for which the Board may be reconstituted under section 6 shall be three years from the date of the reconstitution and the Chairman and other Members of the Board so reconstituted shall hold office till the expiry of the term for which the Board has been so reconstituted.

(2) Notwithstanding anything contained in sub-section (1):

(a) the term of office of an ex-officio Member shall continue as long as he holds the office by virtue of which he is such a Member;

(b) the term of office of a Member elected or chosen under clause (d), clause (g), clause (i), clause (j), clause (k), clause (l) or clause (m) of section 5 to represent any body of persons shall come to an end as soon as he ceases to be a Member of the body which elected him or in respect of which he was chosen;

(c) the term of office of a Member appointed, nominated, elected or chosen **by the Central Government** to fill a casual vacancy shall continue for the remainder of the term of office of the Member in whose place he is appointed, nominated, elected or chosen;

(d) the Central Government may, at the time, remove for reasons to be recorded in writing a member from office after giving him a reasonable opportunity of showing cause against the proposed removal, and any vacancy caused by such removal shall be treated as casual vacancy **(as would death of a Member)** for the purpose of clause (c).

(3) The Members of the Board shall receive such allowances, if any, as the Board may provide by regulations made in this behalf. Provided that neither the salary and allowances nor the other terms and

conditions of service of a Member shall be varied to his disadvantage after his appointment.

(4) No act done or proceeding taken by the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board and in particular, and without prejudice to the generality of the foregoing, during the period intervening between the expiry of the term for which the Board has been reconstituted under Section 6 and its further reconstitution under that section, the ex-officio members of the Board shall discharge all the powers and function of the Board. (Inappropriate since the ex-officio members do not have the time and no inclination to run the Board.)

**8. Secretary and other employees of the Board:** (1) The Central Government in consultation with the Board shall appoint the Secretary of the Board. The Secretary shall have some background of education, environment, welfare, etc. which should not be mistaken as falling under agriculture and animal husbandry.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Board may appoint such number of other officers and employees as may be necessary for the exercise of its powers and the discharge of its functions, and may determine the terms and conditions of service of such officers and other employees by regulations made by it with the previous approval of the Central Government.

**9. Funds of the Board:** The funds of the Board shall consist of grants made to it from time to time by the Government, and of contributions, subscriptions, bequests, gifts and the like made to it by any local authority or by any other person. The Board shall not accept support by way of money or in kind from people or organizations connected to animal exploitation, experimentation, etc.

**10. Functions of the Board:** The functions of the Board shall be

(a) to keep the law in force in India for the prevention of cruelty to animals under constant study, and advise the Central Government on the amendments to be undertaken in any such law from time to time;

(b) to advise the Central Government on the making of rules under this Act with a view to prevent the infliction of trauma, torture, pain or suffering on animals, and to prevent unnecessary killing and to provide for their welfare and wellbeing;

(c) to take all such steps as the Board may think fit for amelioration in conditions of existence of animals by encouraging, or providing for, the construction of shedsshelters, water-troughs and the like and by providing for veterinary assistance to animals;

(d) to advise the Government or any local authority or other person in the design of slaughter-houses or the maintenance of slaughter houses or in connection with slaughter of animals so that trauma, pain or suffering, whether physical or mental, is eliminated in the pre-slaughter stages as far as possible, and animals are killed, wherever necessary, in as humane a manner as possible; (This is animal farewell under the guise of animal welfare and therefore unacceptable.)

(e) to take all such steps as the Board may think fit to ensure that incurably ill or injured animals are destroyed by competent veterinarians, by humane methods of euthanasia; (This should be included if active euthanasia or mercy killing for humans becomes law in India.)

(f) to encourage by the grant of financial assistance or otherwise the formation or establishment of pinjrapoles, rescue homes, animal shelters, sanctuaries, free veterinary hospital, and the like where animals and birds may find a shelter when they have become old and infirm or when they need protection without being commercially exploited when alive or upon their death;

(g) to guide, co-operate with, and co-ordinate the work of, associations or bodies established for the purpose of preventing trauma, torture, pain and suffering to animals, or for the protection of animals and birds, or for creating awareness pertaining to animal exploitation;

(h) to give financial and other assistance to animal welfare organizations functioning in any local area or to encourage the formation of animal welfare organizations in any local area which shall work under the general supervision and guidance of the Board.

(i) to advise the Government on matters relating to the medical care and attention which may be provided in animal hospitals, and to give financial and other assistance to animal hospitals whenever the Board thinks it necessary to do so;

(j) to impart education in relation to the humane treatment of animals and to encourage the formation of public opinion against the infliction of trauma, torture, pain or suffering to animals and for the promotion of animal welfare by means of lectures, books, posters, cinematographic exhibitions and the like;

(k) to advise the Government on any matter connected with animal welfare, and prevention of inflicting of trauma, torture, pain or suffering to animals, and prevention of unnecessary killing and to provide for their welfare and wellbeing;

(l) to discharge all such functions as authorized under the Rules framed under the Act, including those functions that may be entrusted to it under any order or direction of the Central or a State government.

**11. Powers of the Board:** (1) The Board shall take all such measures as may be necessary to prevent the infliction of trauma, torture, pain or suffering to animals, and to prevent unnecessary killing and to provide for their welfare and wellbeing, and for that purpose it may make such regulations as it thinks fit.

(2) Notwithstanding anything contained in any other law, but subject to the provisions of this Act, the Board may, in the exercise of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

(3) Notwithstanding any thing contained in any other law a member authorized by the Board in this behalf shall have the powers for the purpose of enquiry into any complaint under this Act

(a) to enforce the attendance of witness/es

(b) to compel the discovery and production of documents and material objects, and;

(c) to receive and record statements.

**12. Sub-Committees of the Board :** (1) The Board may constitute as many sub-committees as it thinks fit for exercising any power or discharging any duty of the Board or for inquiring into or reporting and advising on any matter which the Board may refer.

(2) A sub-committee shall consist of two Members of the Board and three other persons to aid and advice the Board. The sub-committee may also co-opt other members if needed. Members of the sub-committee will be those who have no vested interests.

### CHAPTER III STATE ANIMAL WELFARE BOARDS

**13. Constitution of State Animal Welfare Boards:** Every State / Union Territory shall constitute a State Animal Welfare Board consisting of not less than 10 members, which shall at least include 36 members of Animal Welfare Organisations or including SPCAs and one representative of the Animal Welfare Board of India, to be nominated by it, for the promotion of animal welfare generally, and for the prevention of cruelty, trauma, torture, pain or suffering to animals. The State Animal Welfare Boards shall be constituted not later than six months after this Act comes into force. No one connected with animal exploitation or products like meat, leather, training, animal laboratory, etc. will be appointed as a Member of a State Animal Welfare Board.

**14. Functions of the State Animal Welfare Boards:** (1) Each State Animal Welfare Board shall ensure that the Act and the Rules framed under this Act are given widespread publicity in the State, and that due and adequate training is provided to all government officers who are required to enforce the provisions of this Act and the Rules made thereunder.

(2) The State Animal Welfare Boards shall render advice to the State Governments or Union Territories and exercise those functions which the State Governments or Union Territories may wish to vest in them in furtherance of animal welfare activities in the State or Union Territory.

**15. Power to make Rules:** Every State or Union Territory shall make rules providing for the manner in which the State Animal Welfare Board may function and for other related matters.

**16. Members and Employees:** Subject to such rules as may be made by the State or Union Territory Government in this behalf, the State Animal Welfare Board may appoint such members or employees as may be necessary for the exercise of powers and discharge of functions, with the prior approval of the State Government or Union Territory.

#### **CHAPTER IV CRUELTY TO ANIMALS GENERALLY**

**17. Treating animals cruelly:** (1) If any person

(a) beats, kicks, over-rides, over-drives, over-loads, teases, provokes, frightens, causes stress, tortures or otherwise treats any animal so as to subject it to trauma, pain, or suffering, unnecessarily or kills any animal or causes, or, being the owner permits, any animal to be so treated or killed; or

(b) employs in any work or labour or for any purpose overburdens any animal without adequate rest, food or water, or which by reason of its age or any disease, infirmity, infancy, sickness, injury, fracture, wound, sore, pregnancy or other cause, is unfit to be so employed, or, being the owner, permits any such unfit animal to be employed; or

(c) wilfully administers any injurious drug or injurious substance to any animal or wilfully causes or attempts to cause any such drug or substance to be taken by any animal; or

(d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to danger, hunger, thirst, torture, trauma, pain, or suffering or death; or

- (e) keeps, tethers or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for its natural and adequate movement; or
- (f) keeps or restrains any animal chained or tethered with a short or heavy chain or cord, or hobbles the legs of any animal; or
- (g) being the owner, neglects to exercise or cause to be exercised, or keeps any animal habitually chained up or in close confinement; or
- (h) being the owner of any animal fails to provide such animal with affection, sufficient food, drinking water, or adequate rest and shelter or required medical attention; or
- (i) abandons any animal in circumstances which render it likely that it will be subjected to danger, stress, suffer trauma, fear, torture, pain or suffering by reason of relocation, starvation, thirst, injury, or illness; or
- (j) wilfully or negligently permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, permits any diseased or disabled or injured animal, of which he is the owner, to die in any street; or
- (k) offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or
- (l) mutilates or maims an animal in any manner including ear cropping, tail docking, debarking, defanging, declawing, tattooing, branding, or piercing or killing any animal in any manner other than that prescribed by the Board; or
- (m) solely with a view to providing entertainment –
- (i) confines or causes to be confined any animal (including tying of an animal as a live bait) so as to make it an object of prey for any other animal; or
  - (ii) incites any animal to run amok, attack or fight any other animal or any human being;
- (n) organises or keeps or uses or participates or acts in the management of any place for animal fighting or racing, or for the purpose of baiting any animal, or permits or offers any place to be so used, contributes or receives consideration for its promotion or for the admission of any other person to any place kept or used for any such purposes; or

(o) promotes or takes part in any shooting match or competition, or canned hunting wherein animals are released from captivity for the purpose of such shooting; or

(p) organizes, participates, promotes or in any manner is associated with any sport or activity involving the use of animals, where such animals are subjected to cruelty or strain and stress either during the sport or activity itself, or while in training or preparation; or

(q) skins or roasts or kills for superstition or extracts parts of any live animals through a procedure which causes pain and suffering, for the purpose of getting skins, oils or other animal products; or

(r) dynamites or electrifies streams or rivers or other water bodies; or

(s) electrifies a fence without authority of law; or

(t) poisons any animal with intent to kill,

he shall be punishable in the case of a first offence, with fine which shall not be less than ten thousand rupees but which may extend to twenty five thousand rupees, or with imprisonment up to two years, or with both, and in the case of a second or subsequent offence, with fine which shall not be less than fifty thousand rupees but may extend to one lakh rupees, and with imprisonment for a term which shall not be less than one year but may extend to three years.

Provided that if at a later point in time, the need for enhancing the penalties prescribed is felt, the Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, achieve that objective through Rules framed for the purpose.

(2) For the purposes of section (1) an owner shall also be deemed to have committed an offence if he has failed to exercise reasonable care and supervision to prevent such offence;

Provided that where an owner is convicted for permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3) Nothing in this section shall apply to –

(a) The dehorning of cattle, or nose roping of cattle, castration of any animal, provided it is performed by a veterinary surgeon in the prescribed manner; or

(b) the extermination or destruction of any animal in the manner prescribed under this act; or

(c) any matter dealt with in Chapter V; or

(d) the commission or omission of any act in the course of the destruction or preparation for destruction of any animal as food for mankind, unless such destruction or preparation was conducted in a manner contrary to any law, rules, regulations, or bye-laws for the time being in force, or accompanied by the infliction of unnecessary trauma, pain or suffering.

**18. Penalty for practising phooka or doom dev:** If any person performs upon any cow or other milch animal the operation called phooka or doom dev or any other operation, including injection of any substance to improve lactation which is injurious to health of the animal, or permits such operation being performed upon any such animal in his possession or under his control, or deprives calves of colostrums, he shall be punishable with fine which shall not be less than twenty thousand rupees but may extend to fifty thousand rupees, or with imprisonment for one year, or with both for the first offence, and in case of a second or subsequent offence he shall be punishable with fine which shall not be less than seventy five thousand rupees but which may extend to one lakh rupees, and with imprisonment which shall not be less than two years but may extend to five years, and the animal on which the operation was performed shall be forfeited to the Government who will if thought fit will give custody of such forfeited animal to any Society for the Prevention of Cruelty to Animals.

Provided that if at a later point in time, the need for enhancing the penalties prescribed is felt, the Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, achieve that objective through Rules framed for the purpose.

**19. Breeding and selling of animals:** No person shall carry on the business of breeding or selling any animal other than in the manner prescribed by the Board.

**20. Slaughter in authorized slaughter houses:** No animal shall be slaughtered except in a slaughter house authorized in this behalf.

## CHAPTER V EXPERIMENTATION OF ANIMALS

**21. Experiments on animals:** No person or institution shall perform an experiments on animals unless permitted by the Committee for the

Purpose of Control and Supervision of Experiments on Animals, established under this Act.

**22. Committee for the Purpose of Control and Supervision of Experiments on Animals:** (1) For the purpose of controlling and supervising experiments on animals, there shall be established by the Central Government a Committee by notification in the Official Gazette consisting of such number of officials and non-officials, as it may think fit to appoint thereto, and which shall include a representative each from the Central Zoo Authority, Animal Welfare Board of India, the Veterinary Council of India, and two or four reputed members of an Animal Welfare Organisation or Society for the Prevention of Cruelty to Animals, among others. No person connected with experimenting upon or testing on animals will be appointed as a member of this Committee. Furthermore, at no time shall the number of persons representing the welfare of animals, be lesser in number than the others.

(2) The Central Government shall nominate one of the Members of the Committee to be its Chairman either the Vice Chairman of the Animal Welfare Board of India (if he is an animal welfare person) or another animal welfare person to be its Chairman.

(3) The Committee shall have power to regulate its own procedure in relation to the performance of its duties.

(4) The funds of the Committee shall consist of grants made to it from time to time by the Government and of contributions, donations, subscriptions, bequests, gifts, and the like made to it by any person. The Committee shall not accept support by way of money or in kind from people or organizations connected to animal exploitation or experimentation.

**23. Sub-Committees:** (1) The Committee may constitute as many sub-committees as it thinks fit for exercising any power or discharging any duty of the Committee or for inquiring into or reporting and advising on any matter which the Committee may refer.

(2) A sub-committee shall consist of Members of the Committee and other persons to aid and advice the committee. The sub-committee may also co-opt other members if needed. At no time shall the number of non-animal welfare persons exceed animal welfare persons on such sub-committees.

**24. Staff of the Committee:** Subject to the control of the Central Government, the Committee may appoint such number of officers and other employees as may be necessary to enable it to exercise its powers and perform its duties and may determine the remuneration and other terms and conditions of service of such officers

and other employees. No person connected with experimenting upon or testing on animals will be appointed to such posts.

## **25. Duties of the Committee and power of the Committee to make rules relating to experiments on animals:**

(1) It shall be the duty of the Committee to take all such measures as may be necessary to ensure that animals are not subjected to unnecessary torture, trauma, pain or suffering before, during or after the performance of experiments on them, and ensure that experiments or surgical and other procedures only to gain manual skills, or experiments or tests whose results are known, or experiments that have non-animal alternatives, or repetitive experiments, are not performed and to maintain records of various experiments performed by institutes registered with the Committee, and to maintain details of various available non-animal alternatives and for that purpose it may, by notification in the Gazette of India and subject to the condition of previous publication, make such rules as it may think fit in relation to the conduct of such experiments.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters namely:

(a) the registration of persons or institutions carrying on experiments on animals;

(b) the reports and other information which shall be forwarded to the Committee by persons and institutions carrying on experiments on animals;

(3) In particular, and without prejudice to the generality of the foregoing power, the regulations made by the Committee shall be designed to secure the following objectives, namely:

(a) that in cases where experiments are performed in any institution, the responsibility for such experiments would be on the person in charge of the institution, and that in cases where experiments are performed outside an institution by others on their behalf, the responsibility for such experiments shall be joint in ensuring that the experiments are performed by qualified individuals in compliance with the conditions prescribed by the Committee;

(b) the experiments are performed with due care and humanity and that experiments involving operations are performed under the influence of an anaesthetic of sufficient potency to prevent the animals feeling pain;

(c) that animals which, in the course of experiments under the influence of anaesthetics, are so injured that their recovery would involve serious

suffering, are euthanized in the manner prescribed while still insensible;

(d) that experiments and dissections are **avoided not carried out** in hospitals, educational institutes including undergraduate medical colleges, pharmacy colleges, zoology and other degree and diploma colleges and universities;

(e) that experiments on larger animals are **not carried out; avoided when it is possible to achieve the same results by experiments upon small laboratory animals;**

(f) that experiments are not performed for the purpose of acquiring manual **or surgical** skill;

(g) that the animals intended to be used or used for experiments are cared for **before,** during and after experiments and rehabilitated wherever feasible in rehabilitation centers, and not in such offending institutes;

(h) that suitable records are maintained with respect to experiments performed on animals.

(4) In making any regulations under this section, the Committee shall be guided by such directions as the Central Government (consistent with the object for which the Committee is set up) may give to it, and the Central Government is hereby authorized to give such directions.

(5) All rules/regulations made, and requirements/conditions prescribed by the Committee shall be binding on all individuals performing experiments **and tests in** outside institutions and on persons<sup>1</sup> in-charge of institutions in which experiments **and tests** are performed.

**26. Power of entry and inspection:** For the purpose of ensuring that the rules/regulations made, or requirements/conditions prescribed by it are being complied with, the Committee or the **Animal Welfare Board of India** as the case may be may authorize any of its officers or any other person in writing to inspect any institution or place where experiments are being carried on, and report to the **Committee**, the result of such inspection, and any officer or person so authorized may –

(a) enter at any time considered reasonable by him and inspect any institution or place in which experiments on animals are being carried on; and

(b) require any person to produce any record kept by him with respect to experiments on animals; and

(c) seize the animal if he has any reason to believe that the provisions of the Act are not being complied with or that the animals are being treated cruelly. The animals so seized shall be kept in the custody of the local SPCA or a recognized animal welfare organization.

**27. Power to prohibit experiments on animals:** If the Committee is satisfied, on the report of any officer or other person made to it as a result of any inspection under section 26 or otherwise, that the rules/regulations made or requirements/conditions prescribed by it under section 25 are not being complied with by any person or institution carrying on experiments on animals, the Committee may, after giving an opportunity to the person or institution of being heard in the matter, by order, prohibit the person or institution from carrying on any experiments either for a specified period or indefinitely, or may allow the person or institution to carry on such experiments subject to special conditions as the Committee may think fit to impose.

**28. Penalties:** If any person—

(a) contravenes Section 21 or any other made by the Committee under section 27; or

(b) commits a breach of any requirement/condition imposed by the Committee, under those sections;

he shall be punishable with fine which shall not be less than twenty five thousand rupees but may extend to fifty thousand rupees, or imprisonment which shall not be less than one year but may extend to three years, or with both, and in the case of a second or subsequent offence with fine which shall not be less than seventy five thousand rupees but may extend to rupees one lakh, and with imprisonment which shall not be less than two years but which may extend to five years.

Further, that when the contravention or breach has taken place within an institution, the person in charge or head of such an institution shall also be deemed to be jointly guilty of the offence, and shall be punishable accordingly under the Act.

Provided that if at a later point in time, the need for enhancing the penalties prescribed is felt, the Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, achieve that objective through Rules framed for the purpose.

## CHAPTER VI PERFORMING ANIMALS

**29. “Exhibit” and “train” defined:** In this Chapter, “exhibit” means exhibit and/or display at any entertainment, show or exhibition, and “train” means train or teach for the purpose of any such exhibition, entertainment, show or performance, and the expressions “exhibitor” and “trainer” have respectively the corresponding meanings.

**30. Restriction on exhibition and training of performing animals:** No person shall —

(i) exhibit or train any performing animal unless he is registered in accordance with the provisions of this Act.

(ii) exhibit or train as a performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.

**31. Procedure for registration:**

(1) Every person desirous of exhibiting or training any performing animal may, on making an application in the prescribed form to the Prescribed Authority and on payment of the prescribed fee, be registered under this Act, unless the Prescribed Authority is of the opinion that such exhibition, training, or performance shall cause trauma, torture, hunger, thirst, fear, pain or suffering to the animal.

(2) An application for registration under this Chapter shall contain such particulars as to the animals and as to the general nature of the performances in which the animals are to be exhibited or for which they are to be trained as may be prescribed, and the particulars so given shall be entered in the register maintained by the Prescribed Authority.

(3) The Prescribed Authority shall give to every person whose name appears on the register kept by them, a certificate of registration in the prescribed form containing the particulars entered in the register.

(4) Every register kept under the Chapter by the Prescribed Authority shall at all reasonable times be open for inspection on payment of the prescribed fee, and any person shall, on payment of the prescribed fee, be entitled to obtain copies thereof or make extracts therefrom.

(5) Any person whose name is entered in the register shall, subject to the provisions of any order made under this Act by any court, be entitled, on making an application for the purpose, to have the particulars entered in the register with respect to him varied, and where any such particulars are so varied, the existing certificate shall be cancelled and a new certificate issued.

**32. Power to enter premises:** (1) Any person authorized in writing by the Prescribed Authority referred to in section 31 and any police officer not below the rank of a sub-inspector may –

(a) enter at all reasonable times and inspect any premises in which any performing animals are being trained or exhibited or kept for training or exhibition, and check any such animals found therein; and

(b) require any person or his representative who, he has reason to believe is an owner, trainer or exhibitor of performing animals to produce his certificate of registration.

**33. Offences:** If any person –

(a) not being registered under this chapter Act, exhibits and/or displays or trains any performing animal; or

(b) being registered under this Act, exhibits and/or displays or trains any performing animal with respect to which or in a manner with respect to which, he is not registered; or in violation of the terms and conditions specified by prescribed authority; or provides false or inaccurate information for obtaining registration; or

(c) exhibits and/or displays or trains or teaches as a performing animal, any animal which is not to be used for the purpose by reason of a notification issued under clause (ii) of section 30; or

(d) obstructs or wilfully delays any person or police officer referred to in section 32 in the exercise of powers under this Act as to entry and inspection; or

(e) conceals any animal with a view to avoiding such inspection; or

(f) being a person registered under the Act, on being duly required in pursuance of this Act to produce his certificate under this Act, fails without reasonable excuse/explanation so to do; or

(g) applies to be registered under this Act when not entitled to be so registered; or

(h) inflicts injury during training, exhibition and/or display, performance, or carelessly handles or negligently causes trauma, torture, hunger, thirst, fear, pain or suffering to the animal; or

(i) being a producer of cinematography makes an animal perform in a film without seeking prior permission of the Prescribed Authority; or

(j) being a broadcaster, broadcasts any programme in which an animal is made to perform without seeking prior permission of the Prescribed Authority,

he shall be punishable, on conviction, with fine which shall not be less than twenty five thousand rupees but may extend to fifty thousand rupees, or imprisonment which shall not be less than one year but may extend to three years, or with both, and in the case of a second or subsequent offence, with fine which shall not be less than seventy five thousand thousand rupees but may extend to one lakh rupees, and with imprisonment which shall not be less than two years but which may extend to five years.

Provided that if at a later point in time, the need for enhancing the penalties prescribed is felt, the Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, achieve that objective through Rules framed for the purpose.

**34. Exemptions:** Nothing contained in this Chapter shall apply to –

(a) the training of animals for bona fide military or police purpose or the exhibition of any such animals so trained; or

(b) animals kept in any zoological garden as recognised by the Central Zoo Authority under the Wild Life Protection Act 1972, in so much as their exhibition or display is concerned. They shall not be subjected to any training or performance.

## CHAPTER VII MISCELLANEOUS

**35. Custody and disposal of animals:** (1) Where the owner or any person who was in the possession of an animal is convicted under any provision of this Act, the animal against which the offence was committed shall be confiscated and transferred to the custody of an Animal Welfare Organization or Society for the Prevention of Cruelty to Animals as may be ordered by the Court;

(2) During the pendency of any criminal proceedings under this Act, the court shall grant the custody of the animal for its care and upkeep to an Animal Welfare Organization or a Society for the Prevention of Cruelty to Animals. On application being made by the owner seeking custody of the animal, the court may grant such custody after obtaining a report from the Animal Welfare Organization or Society for Prevention of Cruelty to Animals, and after satisfying itself that the animal shall not be subjected to further cruelty.

Provided that if the Veterinarian of the Society for the Prevention of Cruelty to Animals or the Animal Welfare Organization in whose custody an animal has been placed by the Court, is and another independent Veterinarian, are of the opinion that such animal is so injured or incapacitated that it would be cruel to keep the animal alive, the concerned Society for the Prevention of Cruelty to Animals or Animal Welfare Organization, after seeking the permission of the court in this regard, shall euthanize the animal in such manner as may be prescribed.

(3) Any police officer above the rank of a constable or any officer of the Society for the Prevention of Cruelty to Animals or Animal Welfare Organization authorized by it or any person authorized by the State Government in this behalf, who finds any animal so diseased or so severely injured or in such a physical condition that in his opinion it cannot be removed without cruelty, may, if the owner is absent or refuses his and therefore unable to give his 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 it would be cruel to keep it alive, the police officer or the person authorized, as the case may be, may, after obtaining orders from a magistrate cause it to be euthanized in such manner as may be prescribed.

(4) No appeal shall lie from any order of a magistrate for the destruction of an animal.

**36. Powers of court with respect to persons convicted:** (1) If the owner of any animal, or any person having the care or charge of an animal is found guilty of any offence under this Act, the court upon his conviction thereof, may, if it thinks fit, in addition to any other punishment make an order that the animal with respect to which the offence was committed shall be forfeited to Government, and may, further, make any order as to the custody or disposal of the animal.

(2) Without prejudice to the provision contained in sub-section (1), the court may also order that a person convicted of an offence under this Act shall, either permanently or during such period as is fixed by the order, be prohibited from having the custody of any animal of any kind whatsoever, or as the court thinks fit of any animal of any kind or species specified in the order. Family members and others living with him are also bound to abide by the court order.

(3) Notwithstanding anything to the contrary contained in any law for the time being in force, any person in respect of whom an order is made under sub-section (3)(2) shall have no right to the custody of any animal contrary to the provisions of the order, and if he contravenes the provisions of any order, he shall be punishable with fine which shall not

be less than ten thousand rupees but may extend to fifty thousand rupees, or imprisonment which shall not be less than **onetwo** year but may extend to three years, or with both.

(4) Any court which has made an order under sub-section (2) may **not** at any time, either on its own motion or on application made to it in this behalf rescind or modify such order.

(5) Where any person is convicted of an offence against this Act or Rules framed, or order passed thereunder, the court may direct that the license, if any, granted to such person under the Arms Act, 1959 (54 of 1959) for possession of any arm with which the offence against this Act, or the Rules framed or order passed as the case may be, has been committed, shall be cancelled, and that such person shall not be eligible for a license under the Arms Act, 1959, for a period of five years from the date of such conviction.

(6) Where any person is convicted of an offence against this Act, or Rules framed, or order passed thereunder, the court may direct that the driving license, or permit, if any, granted to such person under the Motor Vehicles Act, 1988 shall be cancelled, and that such person shall not be eligible for a license, or permit under the Motor Vehicles Act, 1988, for a period of five years from the date of conviction.

(7) Where any person is convicted of an offence against this Act, or Rules framed, or other passed thereunder, the court may direct that the license, or permit, if any, granted to such person under the respective Shops and Establishments Act shall be cancelled, and that such person shall not be eligible for a license, or permit under the Shops and Establishments Act, for a period of five years from the date of conviction.

(8) Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (2 of 1974) or in the probation of Offenders Act, 1958 (20 of 1958) shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age.

**37. Presumptions as to guilt in certain cases:** Where in any proceedings for an offence against this **A**ct, it is established that a person has **is** in **his** possession, custody or control, an animal which is injured or wounded or mutilated or being experimented upon or which has been killed or has in his possession the skin of an animal or any part of the animal, it shall be **the** presumed, until the contrary is proved, the burden of proving which shall lie on the accused, that such person has treated the animal with cruelty.

**38. Cognizability of offences:** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence under

this Act shall be a cognizable offence within the meaning of that Code.

**39. Attempts and abetment:** Whoever attempts to contravene, or abets the contravention of any provisions of this Act, or if any Rules framed, or order passed thereunder, shall be deemed to have contravened those provisions of that Act or Rule or order as the case may be.

**40. Power to compound offences:** (1) The Animal Welfare Board of India or the CPCSEA Committee for the Purpose of Control and Supervision of Experiments on Animals as the case may be, may by order empower its officer –

(a) to accept, from any person against whom a reasonable suspicion exists that he has committed an offence against under this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed; and

(b) when any property that has been seized is liable to be forfeited, to release the same on payment of the current value thereof as estimated by such officer.

(2) On payment of such sum of money to such officer, the suspected person if in custody, shall be discharged, and the property, other than Government property, if any seized, shall be released, and no further proceedings in respect of the offence shall be taken against such person. Provided that no second or subsequent offence shall be compounded.

(3) The officer compounding any offence may order the cancellation of any license or permit or registration granted under this Act or the Rules framed thereunder to the offender, or if not empowered to do so, may approach an officer so empowered and referred to in sub-section 5, 6, and 7 of Section 36, for the cancellation of such license or permit or registration.

**41. Operation of other laws not barred:** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for the time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act.

**42. Offences by companies:** Where an offence against this Act or Rules framed, or order passed thereunder, has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be

deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that **the offence was committed without his knowledge, or that** he exercised all due diligence to prevent the commission of such offence.

**43. Power of entry, search, arrest and detention**: (1)

Notwithstanding anything contained in any other law for the time being in force, if a police officer not below the rank of the sub inspector or any other person authorized in writing by the central government or state government or State Animal Welfare Board or the Animal Welfare Board of India, has reasonable grounds for believing that any person has committed an offence against this Act, he may —

(a) require any such person to produce for inspection any animal article in his control, custody or possession, or any license, or permit or any other document granted to him or required to be kept by him under the provisions of this Act;

(b) stop any vehicle or vessel or train in order to conduct search or inquiry or enter upon and search any premises, land, vehicle, or vessel or train in the occupation of such person, and open and search any baggage or other things or articles in his possession;

(c) seize any animal, or animal article in respect of which an offence against this Act appears to have been committed, from the possession of any person, together with any trap, tool, vehicle, vessel, or weapon used for committing any such offence, and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant and detain him.

(2) It shall be lawful for any of the officers referred to in sub-section (1) to stop and detain any person, whom he sees doing any act for which a license or permit or registration is required under the provisions of this Act, for the purpose of requiring such person to produce the license or permit or certificate of registration, and if such person fails to produce the license or permit or certificate of registration, as the case may be, to arrest him without warrant, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

(3) Any person detained, or article seized under the foregoing power, shall forthwith be taken before a Magistrate to be dealt with according to law.

(4) Any animal seized under the foregoing power, shall be produced before a qualified veterinarian for examination.

(5) Any person who, without reasonable cause, fails to produce anything which he is required to produce under this section shall be deemed to be guilty of an offence against the Act.

Notwithstanding any thing contained in any other law for the time being in force, any of the officers referred to in sub-section (1) shall have powers, for the purposes of investigating into any offence against any provision of this Act,

(a) to issue a search warrant;

(b) to enforce the attendance of witnesses;

(c) to compel the discovery and production of documents, articles, objects, etc.; and

(d) to receive and record evidence.

(6) Any evidence recorded under clause (d) of sub-section (5) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

**44. Search warrants:** (1) If a magistrate of the first or second class or a presidency magistrate or a 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 under this Act is being, or is about to be, or has been committed in any place, he may either himself enter and search the same, or by warrants authorize any police officer not below the rank of sub-inspector to enter and search the place.

(2) The provisions of the Code of Criminal procedure, 1898, relating to searches shall so far as those provisions can be made applicable, apply to searches under this Act.

**45. General Power of seizure for examination:** Any police officer above the rank of a constable or any person authorized by the State Government or State Animal Welfare Board of the Animal Welfare Board of India 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 prescribed, and such police officer or authorized person may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination.

**46. Treatment and care of animals:** (1) The State Government, shall by general or special order appoint Infirmaries, SPCAs, Gaushalas, Animal Welfare Organizations, Pinjrapoles, etc., for the treatment and care of animals in respect of which offences against this Act has been committed, and shall authorize the detention therein of any animal pending its production before a magistrate.

(2) The cost of transporting the animal to an Infirmary, SPCA, Guashala, Animal Welfare Organization, Pinjrapole or any other place for treatment and care of animals in respect of which an offence against this Act has been committed, and of the maintenance and treatment in such places, shall be payable by the owner of the animal, or by the person having the care or charge of any animal, in accordance with the scale of rates to be prescribed by the district magistrate. The cost payable shall not be less than the actual cost of maintenance and treatment.

(3) Any amount payable by an owner of an animal under sub-section (2) may be recovered in the same manner as an arrear of land revenue.

(4) If the owner refuses or neglects to remove the animal within such time as a magistrate may specify, the magistrate may direct that the animal be sold and that the proceeds of the same be applied to the payment of such cost given to a Society for the Prevention of Cruelty to Animals or an Animal Welfare Organisation.

**47. Delegation of powers:** The Central Government may, by notification in the Official Gazette, direct that all or any of the powers exercisable by it under this Act, may, subject to such conditions as it may think fit to impose, be also exercisable by any State Government or the Animal Welfare Board of India.

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

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules providing for all or any of the following matters, namely:

(a) the conditions of service of members of the Board, the allowances payable to them and the manner in which they may exercise their powers and discharge their functions;

(b) the manner in which the persons to represent municipal corporation are to be elected under clause (e)(i) of sub-section (1) of section 5;

(c) the maximum load (including any load occasioned by the weight of passengers) to be carried or drawn by an animal;

(d) the conditions to be observed for preventing the overcrowding of animals; the period during which, and the hours between which, any class of animals shall not be used for draught purposes;

(e) prohibiting the use of any bit or harness involving cruelty to animals;

(f) the other methods or exterminating or euthanasia of any animal;

(g) requiring persons carrying on the business of a farrier to be licensed and registered by such authority as may be prescribed and levying a fee for the purpose;

(h) the manner of capturing animals for purposes of sale, export or any other purpose, and the different appliance or devices that may alone be used for the purpose; and the licensing of such capture and the levying of fees for such licenses;

(i) the precautions to be taken in the transport of animals whether by rail, road, inland waterway, sea or air and the manner in which and the cages or other receptacles in which they may be so transported;

**(j) The manner in which animals may be slaughtered;**

(It is inappropriate and unethical for the Animal Welfare Board of India or the Government to teach butchers how to kill animals.)

(k) requiring persons owning or in charge of premises in which animals are kept or milked to register such premises, and to comply with such conditions as may be laid down in relation to the boundary walls or surroundings of such premises, to permit their inspection for the purpose of ascertaining whether any offence under this Act is being, or has been committed therein, and to expose in such premises copies of section 18 of this Act in a language or languages commonly understood in the locality;

(l) the form in which applications for registration under Chapter VI may be made, the particulars to be contained therein the fees payable for such registration and the authorities to whom such applications may be addressed;

(m) the fees which may be charged by the Committee constituted under section 22 of the registration of persons or institutions carrying on experiments on animals or for any other purpose;

(n) the purposes to which fines realized under the Act may be applied, including such purposes such as the maintenance of Infirmaries, SPCAs, Guashalas, Animal Welfare Organizations, and Pinjrapoles;

(o) the manner of training, housing, upkeep, exhibition, display, and depiction of performing animals;

(p) regulating the breeding and sale of animals;

(q) enhancing penalties for offences; and

(r) any other matter which has to be, or may be prescribed.

(3) If any person contravenes, or abets the contravention of, any rules made under this section, he shall be punishable in the case of a first offence, with a fine which shall not be up to less than ten thousand rupees, but which may extend to twenty five thousand rupees, or with imprisonment up to two years, or with both, and in the case of a second or subsequent offence, with fine which shall not be less than ten fifty thousand rupees but may extend to twenty thousand one lakh rupees, and with imprisonment for a term which shall not be less than one two years and may extend to three years.

**49. Rules and regulations to be laid before Parliament:** Every rule made by the Central Government or by the Committee constituted under section 22 and every regulation made by the Animal Welfare Board of India shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule or regulation.

**50. Persons authorized under section 45 to be public servants:** Every person authorized by the State Government, Central Government, Animal Welfare Board of India or State Animal Welfare Board under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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

**52. Repeal and Saving:** (1) As from the commencement of this Act, every other Act relating to any matter contained in this Act, whether in

force in a State, or any Central Act, including the Prevention of Cruelty to Animals Act, 1960, and the Rules made thereunder, shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant to any provision contained in this Act or in any Rule framed under this Act, stand repealed.

Provided that such repeal shall not—

- (i) affect the previous operation of the Act so repealed, or any thing duly done or suffered thereunder;
- (ii) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under the Act so repealed;
- (iii) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; and
- (iv) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the aforesaid Act had not been repealed.

(2) Notwithstanding such repeal,

(a) anything done or any action taken under the Act so repealed (including any notification, order, certificate, notice, or receipt issued, application made, or permit granted) which is not inconsistent with the provisions of this Act shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or an action taken under this Act;

(b) every license, permit or registration granted under any Act so repealed and in force immediately before the commencement of this Act shall be deemed to have been granted under the corresponding provisions of this Act, and shall, subject to the provisions of this Act, continue to be in force for the unexpired portion of the period for which such license, permit or registration had been granted.

**Above comments and suggestions given by**

**Beauty Without Cruelty – India**

4 Prince of Wales Drive, Wanowrie, Pune 411 040

[chairperson@bwcindia.org](mailto:chairperson@bwcindia.org)