



Republic of Namibia
Annotated Statutes

Animals Protection Act 71 of 1962 (RSA)

(RSA GG 271)

came into force in South West Africa on 1 January 1973
when the amendments made by Act 7 of 1972, which included
the insertion of section 10A, were brought into force

APPLICABILITY TO SOUTH WEST AFRICA: Section 10A, which was inserted by Act 7 of 1972, states
"This Act and any amendment thereof shall apply also in the territory of South West Africa, including the
Eastern Caprivi Zipfel."

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West
Africa by the Executive Powers (Justice) Transfer Proclamation, AG 33 of 1979, dated 12 November
1979. None of the amendments to the Act in South Africa after the date of transfer and prior to
Namibian independence were applicable to South West Africa because none were made expressly
so applicable.

as amended by

General Law Amendment Act 102 of 1972 (RSA GG 3610)

came into force in relevant part on date of publication: 5 July 1972

Animals Protection Amendment Act 7 of 1972 (RSA GG 3414)

brought into force on 1 January 1973 by RSA Proc R.275/1972 (RSA GG 3686)

Part of section 2(1) was struck out on constitutional grounds by *Ex Parte Attorney-General,
Namibia: In Re Corporal Punishment by Organs of State* 1991 NR 178 (SC).

ACT

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

(Afrikaans text signed by the State President)
(Assented to 16th June, 1962)

ARRANGEMENT OF SECTIONS

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BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

1. 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 Act, 1933 (Act No. 16 of 1933).

[The Veterinary Act 16 of 1933 was made applicable to South West Africa by the Veterinary Amendment Act 19 of 1972. It was replaced by the Veterinary and Para-veterinary Professions Proclamation, AG 14 of 1984, which has been replaced by the Veterinary and Veterinary Para-Professions Act 1 of 2013.]

Offences in respect of animals

2. (1) Any person who -
 - (a) cruelly overloads, overdrives, overrides, beats, kicks, goads, ill-treats, neglects, infuriates, terrifies, tortures or maims any animal; or
 - (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

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- (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 or carries any animal -
 - (i) under such conditions or in such a manner or position 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 or dust; or
 - (iii) without making adequate provision for food, water and rest for such animal; or
- (n) without reasonable cause administers to any animal any poisonous or injurious drug or substance; or

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- (o) keeps, uses or manages or assists or acts in the management of any premises or place used for the purpose or partly for the purpose of fighting of any animal or receives any consideration for the admission of any person to any such premises or place; or
- (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,

[paragraph (s) inserted by Act 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 two hundred rand or in default of payment to imprisonment for a period not exceeding six 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.~~

[Ex Parte Attorney-General, Namibia: In Re Corporal Punishment by Organs of State 1991 NR 178 (SC) declares that “the imposition of any sentence by any judicial or quasi-judicial authority, authorising or directing any corporal punishment upon any person is unlawful and in conflict with art 8 of the Namibian Constitution”, and explicitly cites section 2(1) of this Act as one of the affected statutes.]

(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.

[subsection (3) inserted by Act 102 of 1972]

Powers of court

3. (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;

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- (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*.

Power of court to award damages

4. (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 four hundred rand.

(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, 1955 (Act No. 56 of 1955), for the purposes of a prosecution in terms of this Act; and

[The Criminal Procedure Act 56 of 1955 was never applicable to South West Africa. The South West African equivalent was the Criminal Procedure and Evidence Proclamation 30 of 1935, which was replaced by the Criminal Procedure Ordinance 34 of 1963, which, with the exception of sections 300(3) and 370, has been replaced by the Criminal Procedure Act 51 of 1977.]

- (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.

When police officer may destroy any animal

5. (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 persons 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.

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(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 road shall, subject to the provisions of the Animal Diseases and Parasites Act, 1956 (Act No. 13 of 1956), remove the carcass or cause it to be removed therefrom.

**[The Animal Diseases and Parasites Act 13 of 1956
has been replaced by the Animal Health Act 1 of 2011.]**

(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 occasioned unreasonable delay and unnecessary suffering to such animal.

Poundmaster may recover expenses

6. 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.

Owner may be summoned to produce animal for inspection by court

7. (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*.

Powers of officers of society of prevention of cruelty to animals

8. (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;
- (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;

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- (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 before a magistrate;
- (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*.

Costs may be awarded against vexatious complainant

9. 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.

Regulations

10. (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 impounding, custody or confining of any animal due to any condition of such animal and the recovery of any expenses incurred in connection therewith from the owner of such animal; and
 - (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 two hundred rand or imprisonment for a period of six months.

Application of Act in South-West Africa

10A. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

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Repeal of laws

11. 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.

[Section 12 of Act 7 of 1972, which made this Act applicable to South-West Africa, repeals various laws in South-West Africa:

“The Prevention of Cruelty to Animals Proclamation, 1919 (Proclamation No. 17 of 1919), the Prevention of Cruelty to Animals Amendment Proclamation, 1938 (Proclamation No. 24 of 1938), and the Prevention of Cruelty to Animals Amendment Proclamation, 1950 (Proclamation No. 42 of 1950), of the territory of South-West Africa, are hereby repealed.”]

Short title and commencement

12. 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*.