

Malawi

## Protection of Animals Act

### Chapter 66:01

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## Protection of Animals Act

### Chapter 66:01

Commenced on 4 October 1944

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

#### An Act to make provision for the protection of animals

#### 1. Short title

This Act may be cited as the Protection of Animals Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**animal**” means any domestic or captive animal;

“**domestic animal**” means any horse, ass, mule, bull, sheep, pig, goat, dog, cat, or fowl, or any other animal of whatsoever kind or species, and whether a quadruped or not, which is tame or which has been or is being sufficiently tamed to serve some purpose for the use of man;

“**captive animal**” means any animal (not being a domestic animal) of whatsoever kind of species, and whether a quadruped or not, including any bird, fish, or reptile, which is in captivity, or confinement, or which is maimed, pinioned, or subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement;

“**inspector**” means a person appointed as such for the purposes of this Act by the Minister; and

“**veterinary officer**” means an officer in the service of the Veterinary Department of the Government.

#### 3. Offences of cruelty

(1) If any person—

- (a) shall cruelly beat, kick ill-treat, override, overload, torture, infuriate, or terrify any animal, or shall cause or procure, or, being the owner, permit any animal to be so used, or shall by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, cause any unnecessary suffering or being the owner, permit unnecessary suffering to be so caused to any animal;
- (b) shall convey or carry, or cause or procure, or, being the owner, permit to be conveyed or carried, any animal in such a manner or position as to cause that animal any unnecessary suffering;
- (c) shall cause, procure, or assist at the fighting or baiting of any animal, or shall keep use manage or act or assist in the management of, any premises or place for the purpose, or partly for the purpose, of fighting or baiting any animal, or shall permit any premises or place to be so kept, managed, used, or shall receive or cause or procure any person to receive, money for the admission of any person to such premises or place;
- (d) shall wilfully, without any reasonable cause or excuse, administer, or cause or procure, or being the owner, permit, such administration of any poisonous or injurious drug or

substance to any animal, or shall wilfully, without any reasonable cause or excuse, cause any such substance to be taken by any animal; or

- (e) shall subject, or cause or procure, or being the owner permit to be subjected, any animal to any operation which is performed without due care and humanity,

such person shall be guilty of an offence of cruelty within the meaning of this Act, and shall be liable to a fine of £25 and to imprisonment for six months.

- (2) For the purpose of this section, an owner shall be deemed to have permitted cruelty within the meaning of this Act if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom:

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

- (3) Nothing in this section shall render illegal any act done by a registered medical practitioner or by a veterinary surgeon, which may be lawfully done under the Cruelty to Animals Act, 1876, of the United Kingdom, by a person licensed under that Act, or shall apply—
  - (a) to the commission or omission of any act in the course of the destruction, or the preparation for destruction, of any animal as food for mankind, unless such destruction or such preparation was accompanied by the infliction of unnecessary suffering; or
  - (b) to the coursing or hunting of any captive animal, unless such animal is liberated in an injured, mutilated or exhausted condition, but a captive animal shall not, for the purposes of this section, be deemed to be coursed or hunted before it is liberated for the purpose of being coursed or hunted, or after it has been recaptured, or if it is under control.

*[30 of 1969]*

*[39 & 40 Vict., c. 77]*

#### **4. Court may order destruction of animal**

Where the owner of an animal is convicted of an offence of cruelty within the meaning of this Act, it shall be lawful for the court to direct that the animal be destroyed, and to assign the animal to any suitable person for that purpose; and the person to whom such animal is so assigned shall as soon as possible, destroy such animal or cause or procure such animal to be destroyed, in his presence without unnecessary suffering. Any reasonable expenses incurred in destroying the animal may be ordered by the court to be paid by the owner, and thereupon shall be recoverable summarily as a civil debt.

#### **5. Court may deprive person convicted of cruelty of ownership of animal**

If the owner of any animal shall be guilty of cruelty within the meaning of this Act to the animal, the court, upon his conviction thereof, may, if it thinks fit, in addition to any other punishment deprive such person of the ownership of the animal and may make such order as to the disposal of the animal as it thinks fit in the circumstances:

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

#### **6. Compensation for damage done by cruelty to an animal**

If any person shall by cruelty, within the meaning of this Act to any animal, do or cause to be done, any damage or injury to the animal or any person or property, he shall upon conviction for the cruelty under this Act, be liable upon the application of the person aggrieved to be ordered to pay as compensation

to such person, such sum not exceeding £10, as the court before which he is convicted may consider reasonable; the sum so ordered to be paid shall be recoverable as if it were a fine:

Provided that this section shall not—

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

## 7. Injured animals

- (1) If a District Commissioner, inspector, veterinary surgeon, veterinary officer or police officer of or above the rank of inspector finds on any road or in any public place, any animal so diseased or so severely injured or in such physical condition that, in his opinion having regard to the means available for removing the animal, there is no possibility of removing it without cruelty, he may, without the consent of the owner, slaughter the animal, or cause or procure it to be slaughtered, with such instruments or appliances, and with such precautions, and in such manner, as to inflict as little suffering as practicable, and remove the carcass or cause or procure it to be removed from the road or public place.
- (2) Any expense which may be reasonably incurred in carrying out subsection (1) may be recovered from the owner summarily as a civil debt, and subject thereto, any such expense shall be defrayed out of moneys provided by Parliament.

*[30 of 1969]*

## 8. Search warrants

- (1) If a magistrate or a police officer of or above the rank of inspector, upon information in writing, and after such inquiry as he thinks necessary, has reason to believe 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, or, by his warrant, authorize any inspector, veterinary officer or police officer above the rank of constable to enter and search the place.
- (2) The provisions of the Criminal Procedure and Evidence Code relating to searches under that Code, shall, so far as those provisions can be made applicable, apply to a search under subsection (1).

*[Cap. 8:01]*

## 9. Powers of police officers

- (1) A police officer may apprehend without warrant any person who he has reason to believe is guilty of an offence under this Act which is punishable by imprisonment without the option of a fine, whether upon his own view thereof or upon the complaint and information of any other person who shall declare his name and place of abode to such police officer.
- (2) Where a person having charge of a vehicle or animal is apprehended by a police officer for an offence under this Act, it shall be lawful for that or any other police officer, to take charge of such vehicle or animal, and to deposit the same in some place of safe custody until the termination of the proceedings or until the court shall direct such vehicle or animal to be delivered to the person charged or the owner, and the reasonable costs of such detention; including the reasonable costs of veterinary treatment where such treatment is required, shall, in the event of a conviction in respect of the said animal, be recoverable from the owner summarily as a civil debt, or, where the owner himself is convicted, shall be part of the costs of the case.

## **10. Employers and owners to produce drivers or animals if so required**

- (1) Where proceedings are instituted under this Act, against the driver or conductor of any vehicle, it shall be lawful for the court to issue a summons directed to the employer of the driver or conductor, as the case may be, requiring him, if it is in his power so to do, to produce the driver or conductor at the hearing of the case.
- (2) Where proceedings are instituted under this Act it shall be lawful for the court to issue a summons directed to the owner of the animal requiring him to produce either at, or at any time before, the hearing of the case, as may be stated in the summons, the animal for the inspection of the court, if such production is possible without cruelty.
- (3) Where a summons is issued under either of the foregoing subsections, and the owner or employer, as the case may be, fails to comply therewith without satisfactory excuse, he shall be liable to a fine of £5 for the first occasion and of £10 for the second or any subsequent occasion on which he so fails, and may be required to pay the costs of any adjournment rendered necessary by his failure.

## **11. Costs**

- (1) In all cases of a conviction for an offence under this Act, the court may order the person convicted to pay all or any part of the costs and expenses of his prosecution. Any money payable by virtue of an order under this section shall be recoverable as if it were a fine.
- (2) The court may order that the whole or such portion of the costs and expenses as the court thinks fit paid by or recovered from the convicted person shall be paid to the prosecutor or complainant.

## **12. Payments out of fine**

Where in any proceedings under this Act any fine is imposed the court may award any sum or sums not exceeding half the total fine to the person, not being a police officer, who shall complain and prosecute, or to such other person or society as the court shall think fit.

## **13. Infirmaries**

- (1) The Minister may, by order appoint places to be infirmaries for the treatment and care of animals in respect of which offences under this Act have been committed.
- (2) The court before which a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary, and be there detained until it is, in the opinion of the court, again fit for the work or labour on which it has been ordinarily employed.
- (3) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal, according to such scale or rates as the Minister may from time to time prescribe.
- (4) If the owner refuses or neglects to pay such cost, and to remove the animal within such time as the court may prescribe, the court may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.
- (5) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale. In the event of no application being made within the said period of two months, the said surplus shall be disposed of as if it were a fine.

## **14. Power to make Rules**

- (1) The Minister may make Rules for carrying this Act into effect.

- (2) In particular and without prejudice to the generality of the foregoing power, such Rules may provide —
- (a) for insuring for animals carried on inland waters a proper supply of food and water and proper ventilation during the passage and on landing;
  - (b) for protecting animals from unnecessary suffering during the passage and on landing;
  - (c) for protecting animals from unnecessary suffering during inland transit; and
  - (d) for prescribing and regulating the payment and recovery of expenses incurred under any rule.