

I assent.

(L.S.)

GEORGE VELLA
President

20th January, 2023

ACT No. I of 2023

AN ACT to amend the Animal Welfare Act, Cap. 439.

BE IT ENACTED by the President, by and with the advice and consent to the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title and
commencement.
Cap. 439.

1. (1) The short title of this Act is the Animal Welfare (Amendment) Act, 2023 and this Act shall be read and construed as one with the Animal Welfare Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force within two (2) months from its publication in the Gazette.

Substitution of
article 1 of the
principal Act.

2. Article 1 of the principal Act shall be substituted by the following new article:

"Short title and
scope.

1. (1) The short title of this Act is the Animal Welfare Act.

(2) The scope of this Act is to establish and consolidate the protection and well-being of animals kept for work, sports, shows, commercial reasons, companionship, food, conservation, education, as private collections, medical reasons and experimentation."

3. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) the definition "circus" shall be substituted by the following new definition:

" "circus" means any exhibition put on by exhibitors for profit, and viewed by the public for entertainment which offers amusement and display, and where animals are made to perform tricks or manoeuvres, which do not reflect their natural behaviour or does not offer any educational value;" and

(b) the definition "tether" shall be substituted by the following new definition:

" "tether" means to restrain an animal by tying it to any stationary object or structure, by any means, including but not limited to a chain, rope, cord, leash, pulley or cable run, but shall not include the use of a leash when walking a domestic animal in a public place;".

4. Immediately after sub-article (10) of article 4 of the principal Act there shall be added the following new sub-article:

Amendment of article 4 of the principal Act.

"(11) No person shall be qualified to be a member of the Council for Animal Welfare if such person:

- (a) is a Member of the House;
- (b) is serving as a judge or magistrate;
- (c) is legally incapacitated or interdicted;

(d) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Malta, or has made composition or arrangement with his creditors;

(e) is interdicted or incapacitated for any mental infirmity or for prodigality by a court in Malta, or is otherwise determined to be of unsound mind; or

(f) has been convicted of a crime affecting public trust or theft or fraud, or of knowingly receiving property obtained by theft or fraud, or an offence against this Act and, or regulations made thereunder and, or an offence against the Veterinary Services Act and, or regulations made thereunder."

Cap. 437.

5. Article 8 of the principal Act shall be amended as follows:

Amendment of article 8 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

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"(1) The Minister may make regulations providing for the manner in which such species of animals as may be prescribed shall be cared for, fed, medicated, watered, treated and trained, and the qualifications of persons who shall be responsible thereof."; and

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) No animal shall be caused any unnecessary pain, suffering or distress or subjected to any activities which are not in his nature. No animal shall be abandoned:

Provided that for the purposes of this sub-article, the words "activities which are not in their nature" shall also include activities of a sexual nature between a person and an animal, whether by any part of the body or by any object, unless that object is used for medical intervention and medical purposes.".

Addition of new article to the principal Act.

6. Immediately after article 31F of the principal Act there shall be added the following new article:

"Application.

31G. The provisions of this Part shall not apply to the use of animals as props or extras in artistic, theatrical, or cinematic performances, sporting competitions or any other event which does not compromise in any way the protection or the welfare of the animals which may be approved by the Director for Veterinary Services under the conditions that he deems fit.".

Addition of new article to the principal Act.

7. Immediately after article 43 of the principal Act there shall be added the following new article:

"Animal breeds.

43A. The Minister may make regulations, when necessary, to regulate certain animal breeds.".

Amendment of article 44A of the principal Act.

8. Article 44A of the principal Act shall be amended as follows:

(a) paragraph (f) of sub-article (2) thereof shall be substituted by the following new paragraph:

"(f) review and investigate, either out of his own motion or following a complaint received by him, the functions and workings of the Directorate of Veterinary Services, or the Directorate responsible for Animal Welfare;"; and

(b) paragraph (f) of sub-article (3) thereof shall be substituted by the following new paragraph:

"(f) has been convicted of a crime affecting public trust or theft or fraud, or of knowingly receiving property obtained by theft or fraud, or an offence against this Act and, or regulations made thereunder and the Veterinary Services Act and, or regulations made thereunder."

9. Article 44B of the principal Act shall be amended as follows: Amendment of article 44B of the principal Act.
- (a) sub-article 1 thereof shall be amended as follows:

(i) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) enter any premises, public or private, at all times, and in the case of a dwelling house after giving reasonable notice of at least twenty-four (24) hours, to inspect, detect and investigate any offence under this Act which has been or is likely to be committed, to collect evidence and, without prejudice to the generality of the powers to examine under this Act, such persons shall have the power to examine any animal, food, feed, medicine, structure, animal housing system, enclosure, vehicle, station, documents, equipment or laboratory. Any person entering any premises in pursuance to this sub-article shall produce his authority or his identity prior to or upon entering such premises:

Provided that the twenty-four (24) hours notice to enter into a dwelling house shall not be applicable if the Director himself and not any other official acting under his delegated authority, considers that there is reasonable suspicion, on the basis of substantiated grounds, that an offence under the Act or the regulations made thereunder has been committed or is about to be committed:

Provided further that in the event that the owner of a private property or any other premises cannot be identified or cannot be identified despite reasonable efforts, the officer may enter by means of force and without the consent or prior warning of the owner of said private property, for the purposes of assisting, attending to, and caring for an animal who is in distress and whose life or health, in the discretion of the Director, is in serious jeopardy:

Provided further that in all instances referred to in the preceding two provisos, the Director shall within twenty-four (24) hours from execution file an application before the competent Court therein giving reasons for his actions, and that application shall be determined by that Court after the Court has given any directives it deems appropriate;" and

(ii) sub-paragraph (ii) of paragraph (b) thereof shall be substituted by the following new sub-paragraph:

"(ii) seize any equipment, medicine, animal product, gear, instrument and, or appliance which he believes have been used in the commission of such offence or in respect of which he believes such offence has been committed or that is the result of an offence under this Act or any regulations under this Act"; and

(b) sub-article (2) thereof shall be substituted by the following sub-article:

"(2) For the purpose of performance of any function under this Act, the Director for Veterinary Services, Director for Animal Welfare, animal welfare officers or any other such officer or person as may be authorised by the Director for Veterinary Services or Director for Animal Welfare may request the assistance of the Malta Police Force, any local council, any voluntary organisation or private sector, any department of Government or any government agency.".

Amendment of
article 45 of the
principal Act.

10. Article 45 of the principal Act shall be amended as follows:

(a) the proviso to paragraph (b) of sub-article (1) thereof shall be substituted by the following:

"Provided that when a person is found guilty of a breach of the provisions of this Act or the regulations made thereunder consisting of ill-treatment of animals, the Court may when it deems it to be appropriate, in addition to the punishment, prohibit the person found guilty from keeping animals or from residing in a place where animals are kept for such period as the Court may determine:

Provided further that the Court, upon the request of the prosecution, may issue a court decree during the course of proceedings if it is satisfied that there is *prima facie* evidence for the issue of the court order against a person charged with a breach of the provisions of this Act or any of the regulations made thereunder consisting of ill-treatment of animals in order to prohibit that person from keeping animals until the judgment becomes *res judicata*:

Provided further that the Commissioner for Animal Welfare shall maintain a register called the "Offenders of the Animal Welfare Act and its Regulations" within which there shall be noted down the name of any convicted person by the Court of a breach of the provisions of this Act or any of the regulations made thereunder and where it is declared by the Court that the convict shall be prohibited from keeping animals for such period as the Court may determine. An authentic copy of the relevant judgment or court decree, shall also be kept in the register."; and

(b) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) Without prejudice to the provisions of sub-article (1), any person found guilty of committing an offence under this Act or any of the regulations made thereunder shall, in addition to the punishments prescribed under the last foregoing sub-article, be ordered by the Court to pay for any expenses incurred for the treatment, relocation or forfeiture of animals from any place in Malta, the revocation of any permits issued for the operation of any activity regulated under this Act and, or the regulations made thereunder and for other reasonable expenses as the Court may deem fit.".

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Passed by the House of Representatives at Sitting No. 76 of the 16th January, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives