

AUSTRALIAN CAPITAL TERRITORY.

No. 16 of 1959.

AN ORDINANCE

Relating to the Prevention of Cruelty to Animals.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1955*.

Dated this thirteenth day of November, 1959.

W. J. SLIM

Governor-General.

By His Excellency's Command,

GORDON FREETH

Minister of State for the Interior.

PREVENTION OF CRUELTY TO ANIMALS ORDINANCE 1959.

1. This Ordinance may be cited as the *Prevention of Cruelty to Animals Ordinance 1959*.* Short title.

2. The *Prevention of Cruelty to Animals (Trap Shooting) Ordinance 1953*, is repealed. Repeal.

3. The *Homing Pigeons Protection Act 1909* of the State of New South Wales shall cease to apply to the Territory. Act of the State of New South Wales to cease to apply.

4. In this Ordinance, unless the contrary intention appears— Definitions.

“animal” means every species of bird and every species of animal, other than a human being;

“keeper”, in relation to an animal, includes a person having charge of the animal, whether with or without the consent of the owner of the animal;

“the Court” means the Court of Petty Sessions established under the *Court of Petty Sessions Ordinance 1930-1958*.

5.—(1.) For the purpose of this Ordinance, a person commits an act of cruelty upon an animal if— Acts of cruelty.

(a) he wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, worries, torments or terrifies an animal;

* Notified in the *Commonwealth Gazette* on 26th November, 1959.

- (b) he knowingly overloads or overcrowds an animal;
- (c) he unreasonably, wantonly, or maliciously, neglects or beats an animal or causes unnecessary pain to an animal;
- (d) he knowingly or negligently does an act or omits to do an act which results in pain, suffering or distress to an animal;
- (e) he keeps or uses a place for the purposes of fighting or baiting an animal, acts in the management of such a place or permits or suffers a place to be so used;
- (f) he encourages, aids or assists at the fighting or baiting of an animal;
- (g) he conveys, carries or packs an animal in such a manner or position as to subject the animal to unnecessary pain or suffering;
- (h) he knowingly or negligently works, rides, drives or uses an animal when it is unfit for such a purpose;
- (i) he, being the keeper of an animal, fails to provide the animal with proper and sufficient food, drink and shelter;
- (j) he, being the keeper of an animal which is habitually chained up or kept in close confinement, neglects to exercise the animal daily and reasonably;
- (k) he promotes or takes part in a shooting match or competition in which animals are released from captivity for the purposes of that match or competition;
- (l) he releases an animal from captivity for the purpose of enabling himself or another person to shoot at that animal or shoot at an animal so released;
- (m) he uses or applies or causes to be used or applied, a galvanic or electric battery or other similar appliance upon or to an animal during its training for or before or after being entered for a race upon a racecourse;
- (n) he administers a poisonous or injurious drug or a poisonous or injurious substance to an animal or causes such a drug or substance to be taken by an animal;
- (o) he, being the keeper of an animal, abandons the animal; or
- (p) he docks, or causes to be docked, the tail of a horse in such a manner so as to leave less than thirteen joints in the tail.

(2.) A person shall not commit an act of cruelty upon an animal.

Penalty: One hundred pounds, or imprisonment for six months.

6.—(1.) For the purposes of this Ordinance, a person commits an act of aggravated cruelty upon an animal if he commits an act of cruelty upon an animal that results in the death, deformity or serious disablement of the animal. Acts of aggravated cruelty.

(2.) A person shall not commit an act of aggravated cruelty upon an animal.

Penalty: Two hundred pounds or imprisonment for two years.

(3.) An offence against this section is punishable on summary conviction.

7. The last two preceding sections of this Ordinance do not apply to an act done— Exceptions.

(a) in the extermination of an animal or bird the name of which is specified in the Schedule to the *Animals and Birds Protection Ordinance 1918-1937* or the name of which has, in pursuance of that Ordinance, been added to that Schedule;

(b) in the hunting, snaring, trapping, shooting, or taking of an animal or bird the name of which is specified in the Schedule to the *Animals and Birds Protection Ordinance 1918-1937* or the name of which has, in pursuance of that Ordinance, been added to that Schedule;

(c) in an experiment or vivisection performed on an animal for the purposes of scientific investigation in accordance with conditions, if any, determined by the Minister of State for Health by a person, or by a person acting under the direction, control and supervision of a person, who—

(i) is a legally qualified medical or veterinary practitioner, or being a graduate of a university, is engaged in biological research; and

(ii) is authorized by the Minister of State for Health, to perform experiments and vivisections on animals.

8.—(1.) Where—

(a) an animal is impounded or confined in a slaughter yard, pen, cage, hutch, pound or other place; and

(b) more than twenty-four consecutive hours or in the case of ruminants, more than thirty-six hours have elapsed since the animal was supplied with proper and sufficient food and water,

any person may enter upon the place in which the animal is so confined, and may supply the animal with proper and sufficient food and water during so long a time as the animal is so confined. Power to private persons to provide food for animals in confinement.

(2.) It is a good defence to any action for trespass or other proceeding by any other person against a person referred to in the last preceding sub-section if the entry was reasonable in the circumstances and was carried out so as to cause the minimum amount of damage.

(3.) A person who supplies food and water to an animal in accordance with sub-section (1.) of this section may recover, as a debt due and owing by the owner of the animal, the cost of providing proper and sufficient food and water for the animal.

Destruction of suffering animal.

9. Any animal that is found abandoned or diseased, injured or disabled to such an extent that its existence involves continued suffering may be destroyed upon authority in writing signed by a person authorized in that behalf by the Minister.

Power of Court to prohibit ownership.

10.—(1.) Where a person, being the owner or keeper of an animal, is convicted of an offence against any of the foregoing provisions of this Ordinance, the Court, in addition to any other punishment, may order—

- (a) that the person shall cease to be the keeper of a specified animal, and shall dispose of that animal in such manner as the Court specifies;
- (b) that the person shall not have in his possession, custody or control an animal of a specified species during such period as the Court specifies; or
- (c) that the person shall not have in his possession, custody or control an animal of any species whatsoever during such period as the Court specifies.

(2.) A person in respect of whom the Court has made an order under the last preceding sub-section shall not contravene or fail to comply with the order.

Penalty: One hundred pounds or imprisonment for six months.

Order for payment of veterinary expenses.

11.—(1.) Where—

- (a) a person is convicted of an offence against this Ordinance; and
- (b) it is established that, as a result of the act or omission that constituted the offence, it was necessary to provide veterinary or other treatment for the animal in relation to which the offence was committed,

the Court may, in addition to any other punishment, direct the person convicted of the offence to pay to the person who incurred liability for the payment for the treatment such sum as the Court considers reasonable.

(2.) A direction under the last preceding sub-section shall be deemed to be an order whereby a sum of money is adjudged to be paid within the meaning of the *Court of Petty Sessions Ordinance* 1930-1958 by the person convicted of the offence to the person who incurred the expense and may be enforced accordingly.

12.—(1.) A person shall not, without the consent in writing of the Secretary to the Department of the Interior, set on any Commonwealth land a trap which is capable of trapping an animal by mechanical means.

Penalty: One hundred pounds or imprisonment for six months.

(2.) A person shall not set on a parcel of land, not being Commonwealth land, a trap which is capable of trapping an animal by mechanical means unless—

- (a) he is the occupier of the parcel of land; or
- (b) he has, at the relevant time, the consent in writing of the occupier to the setting of the trap.

Penalty: One hundred pounds or imprisonment for six months.

(3.) In this section—

“Commonwealth land” means land vested in the Commonwealth that has not been leased or is not the subject of a tenancy agreement;

“occupier”, in relation to a parcel of land, means—

- (a) in the case of a parcel of land held under freehold title—the owner of the land or the person occupying the land with the consent of the owner of the parcel of land;
- (b) in the case of a parcel of land held from the Commonwealth under a lease for a term of years—the lessee of the parcel of land or the person occupying the land with the consent of the lessee; and
- (c) in the case of a parcel of land held from the Commonwealth under a weekly, fortnightly, monthly or quarterly tenancy of the land—the tenant of the parcel of land.

13. Where a person is charged with an offence against this Ordinance, other than against the last preceding section, it is a sufficient defence if he satisfies the Court that the doing of the act or the omission to do the act which constituted the offence charged was reasonable in the circumstances.

Defence to
prosecution.