

STATE OF SABAH

ANIMAL WELFARE ENACTMENT 2015 (Sabah No. 9 of 2015)

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FIRST SCHEDULE

SECOND SCHEDULE

Sabah LawNet

An Enactment to provide a law for promoting the welfare and responsible ownership of animals and for the prevention of cruelty to animals, and for related matters.

ENACTED by the Legislature of the State of Sabah as follows:

PART I
PRELIMINARY

Short title and commencement

1. (1) This Enactment may be cited as the Animal Welfare Enactment 2015.
- (2) This Enactment comes into operation on a date to be appointed by the Minister by notification in the *Gazette*. (c.i.f 02.01.16)

Interpretation

2. In this Enactment, unless the context otherwise requires –

“animal” means any living creature other than a human being and includes any beast, bird, aquatic animals or insect but does not include wildlife under the Wildlife Conservation Enactment 1997 [No. 6 of 1997];

“building” includes any stable or enclosure, whether roofed or not, used for sheltering or confining any animal or any pen, cage, wall, gate, pillar, post, paling, frame, hoarding, fence, platform, roadway, path, steps, staging, slip, wharf, dock, piles, jetty, landing stage or bridge, or any structure connected with the foregoing;

“carcass” means the dead body of an animal and includes any part of the body whether separately or otherwise;

“conveyance” means any kind or description of vehicle, ship, aircraft or any other mode of transport whether by land, sea or air;

“Director” means the Director of Veterinary Services and Animal Industry;

“Minister” means the Minister in charged with the responsibility for veterinary services and animal industry;

“owner” means any person who owns any animal and includes any person for the time being in charge of any animal and any person for the time being occupying any premises;

“premises” includes any house, building, hut, shed, structure, platform, plant, warehouse, container and land whether or not enclosed or built upon;

“quarantine station” has the meaning assigned to it under the Animal Enactment 2015;

“registered veterinary surgeon” has the meaning assigned to it under the Veterinary Surgeons Act 1974 [Act 147];

“veterinary authority” means the Director of Veterinary Services and Animal Industry or any public officer authorized by him in writing to exercise any power under this Enactment;

“veterinary centre” has the meaning assigned to it under the Animal Enactment 2015.

PART II FUNCTIONS AND POWERS

Functions and powers of the Director

3. (1) The Director shall have the following functions and powers:
- (a) to promote the welfare and wellbeing of the animal;
 - (b) to impart education in relation to the humane treatment of animals and to encourage the formation of public opinion relating to the infliction of trauma, pain or suffering to animals;
 - (c) to prevent infliction of trauma, pain or suffering on animals and the prevention of unnecessary killing;

- (d) to administer the protection of animals, including animals in rescue homes, animal shelters or sanctuaries;
- (e) to monitor the work or activities of associations or bodies established for the purpose of welfare of the animal and preventing trauma, pain or suffering to animals;
- (f) to monitor the situation and condition of the place where animals may be placed for shelter when the animals are infirmed or in need of protection;
- (g) to advise the Minister on matters relating to animal welfare and prevention of cruelty;
- (h) to administer, enforce and ensure the effective implementation of this Enactment; and
- (i) to do all things expedient and necessary for or incidental to the performance of his functions and powers under this Enactment.

(2) In the exercise of his functions under this Enactment, the Director shall have the powers to issue directions, guidelines or code of practices in writing to any officer, authority or person and such officer, authority or person shall be bound to comply with such directions, guidelines or code of practices.

Power to delegate

4. (1) The Director may in writing delegate any of his functions or powers subject to such conditions, limitations or restrictions as he thinks fit, to any veterinary authority or public officer, and such person to whom the functions or powers is delegated shall perform the functions and powers in the same manner and with the same effect as if the functions or powers had been conferred on him under this Enactment.

(2) A person purporting to act pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) A delegation made under this section may at any time be revoked by the Director.

(4) The delegation under this section shall not preclude the Director himself from carrying out at any time the delegated functions or powers.

PART III
LICENSING

Requirement for licence

5. (1) No person shall carry on the activities involving animals as specified in the First Schedule unless he holds a valid licence issued under this Enactment.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding seventy-five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Application, issuance or refusal of licence

6. (1) An application for a licence shall be made to the Director in such manner as the Director may determine.

(2) The application under subsection (1) shall be accompanied by such documents or information as the Director may consider necessary and relevant to the application and the Director may, orally or in writing at any time after receiving the application before it is determined, require the applicant to provide such additional documents or information as the Director considers necessary for the purposes of determining the suitability of the applicant for the licence.

(3) The Director may, after receiving an application for a licence under subsection (1), issue the licence or refuse to issue the licence.

(4) Where an application for a licence is approved by the Director, the licence shall be issued in the name of the applicant upon payment of the prescribed fee and the Director may impose such terms and conditions as he may deem necessary.

(5) Where the Director refuses to issue the licence in subsection (3), he shall inform the applicant by a written notice that the application has been refused.

Duration of licence

7. (1) A Licence issued or renewed under this Enactment shall remain in force for a period of one year from the date of its issuance or renewal, unless –

- (a) the licence is suspended or revoked;
- (b) the licensee is barred from holding the licence; or
- (c) the licensee is disqualified under section 43.

Renewal of licence

8. (1) A licensee may apply for a renewal of his licence not later than sixty days before the date of the expiry of the licence in any form and manner as may be determined by the Director.

(2) A licensee shall furnish to the Director any information as he considers necessary and relevant to the application.

(3) The Director may, after receiving an application for renewal of licence under subsection (1), renew the licence or refuse to renew the licence.

(4) Where an application for a renewal of licence is approved by the Director, the licence shall be renewed upon payment of the prescribed fee and the Director may impose such terms and conditions as he considers necessary.

Display of licence

9. (1) A licensee shall display his licence at a conspicuous place at his premises.

(2) Notwithstanding subsection (1), a licensee is not required to cause a copy of the licence to be displayed if he carries on the activities outside the premises but the licensee shall ensure that he or the person in charge of the activity has a copy of the licence with him.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Suspension and revocation of licence

10. (1) The Director may, by giving a notice in writing to the licensee, suspend his licence for a period of two months under any of the following circumstances:

- (a) the licensee or any employee of the licensee has been convicted of an offence under this Enactment;
- (b) the licensee has breached any conditions specified in the licence;
- (c) the licensee has failed to comply with any of the provisions of this Enactment or any subsidiary legislation made under this Enactment;
or
- (d) the welfare of an animal would be under threat if the licence remained in force.

(2) The Director may, by giving a notice in writing to the licensee, revoke his licence under any of the following circumstances:

- (a) the licence has been obtained by fraud or misrepresentation;
- (b) the licensee fails to remedy the grounds of suspension or take reasonable steps to ensure that the grounds for the suspension will not recur, within fourteen days before the end of the suspension period; or
- (c) the original purpose for which the licence was issued no longer exists.

(3) The Director may disqualify a licensee from applying for another licence before the expiration of the revoked licence.

(4) Upon suspension or revocation, the licensee shall surrender the licence to the Director not later than fourteen days from the date on which the notice of suspension or revocation is served on him.

(5) Where a licence has been suspended or revoked, it shall have no effect during the period of suspension or from the date of revocation, as the case may be.

Licence not transferable

11. (1) A licence under this Enactment shall not be transferable and no person shall use a licence of another person.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Altering licences, etc.

12. Any person who, without lawful authority, alters any licence or any other document issued under this Enactment or subsidiary legislation made under this Enactment or knowingly makes use of any licence or document so altered, commits an offence and shall, on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Barred from holding licence

13. Where a person has been convicted of an offence under this Enactment or any subsidiary legislation made under this Enactment, he may be barred from holding any licence by the Director for a period not less than two years commencing on the date when the proceeding in respect of the conviction is finally concluded.

PART IV
MATTERS RELATING TO ANIMAL WELFARE

Duties of owner or licensee

14. (1) The owner or a licensee shall have a duty to –
- (a) take reasonable steps to ensure that the needs of an animal are fulfilled, which includes –
 - (i) its need for a place to live in a suitable environment;
 - (ii) its need for a suitable diet;
 - (iii) the need for it to be able to exhibit its normal behavioural patterns;
 - (iv) the need for it to be housed with or apart from other animals; and
 - (v) the need for it to be protected from pain, suffering, injury and disease; and
 - (b) ensure that the circumstance to which it is relevant to have regard to the needs of an animal under paragraph (a) includes –
 - (i) any lawful purpose for which the animal is kept; and
 - (ii) any lawful activity undertaken in relation to the animal.
- (2) Nothing in this section applies to the lawful destruction of any animal for any reasonable purposes in an appropriate and humane manner.
- (3) An owner or a licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding seventy-five thousand ringgit or imprisonment for a term not exceeding two years or to both.

Improvement notices

15. (1) Where an enforcement officer is of the opinion that an owner or a licensee fails to comply with section 14, he may serve on the owner or the licensee an improvement notice containing the following:

- (a) the details of the non-compliance of section 14;
- (b) the steps to be taken by the owner or the licensee;
- (c) set out a period for the owner or the licensee to take those steps referred to in paragraph (b); and
- (d) the effect of the failure to comply with the direction as specified in the improvement notice.

(2) The owner or the licensee shall comply with the requirement of the notice referred to in subsection (1).

(3) An enforcement officer may, as he thinks necessary, extend the compliance period specified in the improvement notice.

(4) An owner or a licensee who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Transportation of animals

16. (1) An owner or a person in control or in charge of any conveyance shall have a duty to provide for –

- (a) adequate, clean and suitable facilities; and
- (b) sufficient food and water,

to the animals which are being transported in a conveyance to ensure the safe delivery of the animals to the consignee.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding seventy-five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Selling of animals to persons under the age of twelve years old

17. Any person who sells an animal to a person whom he has reasonable cause to believe to be under the age of twelve years old, unless such person is accompanied by an adult, commits an offence and shall, on conviction, be liable to a fine not exceeding seventy-five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART V
CRUELTY TO ANIMALS

Cruelty offences

18. (1) Any person who –
- (a) cruelly beats, kicks, overloads, ill-treats, tortures or terrifies any animal;
 - (b) overrides or overdrives any animal, except for activities in relation to equestrian sports which is listed in the First Schedule to the Sports Development Act 1997 [Act 576];
 - (c) causes, procures or, being the owner, permits any animal to be over used;
 - (d) being the owner of any animal, or being the person in charge of any animal in confinement, fails or neglects to provide such animal with sufficient food or drinks or shelter;
 - (e) wantonly or unreasonably doing or omitting to do any act, causes any unnecessary pain or suffering, or, being the owner, permits any unnecessary pain or suffering to any animal;

- (f) causes, procures or, being the owner, permits any animal to be confined, conveyed or lifted, or carried any animal in such manner or position as to subject such animal to unnecessary pain or suffering;
- (g) employs, causes, procures or being the owner permits to be employed at any work labour, any animal which in consequence of any disease, infirmity, wound or sore, or otherwise is unfit to be so employed;
- (h) mutilates any animals in any manner including ear cropping, tail docking, defanging, declawing, branding, piercing or debarking unless in the manner as determine and certified by a veterinary authority or a registered veterinary surgeon;
- (i) skins, roasts or kills any live animals for superstitious belief through a procedure which causes pain and suffering to the animals;
- (j) extracts any part of live animal through a procedure which causes pain and suffering to the animals for the purpose of getting skins, oils or other animal products;
- (k) dynamites, electrifies or poisons any streams, rivers or other water bodies for the purpose of killing, harvesting or catching animals;
- (l) keeps any animal chained or tethered by using a short or heavy chain or cord, or hobbles the legs of animal;
- (m) keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and width to permit the natural movement of the animal;
- (n) offers for sell any animals which is suffering in pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment;
- (o) possesses, without reasonable cause, any animal which is suffering in pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment;

- (p) abandons any animal in circumstances which it is likely to suffer trauma, pain or suffering by reason of relocation, starvation, thirst, injury, or illness;
- (q) being the owner of any animal, willfully or negligently causes, any animal to go out unattended in any place while the animal is infected with infectious disease;
- (r) being the owner of animal, willfully or negligently causes, any disease, disabled or injured animal to die in any place;
- (s) causes, obtain or assists at fighting or baiting of any animal, or keeps, uses, manages, acts or assists in management of any premises or place for the purpose of fighting or baiting any animal, or permits any premises or place to be so kept, manage or used, or receive or causes or obtains any person to receive money for the admission of any person to such premises or place;
- (t) promotes or takes part in any shooting match or competition of which animals are released from captivity for the purpose of shooting; or
- (u) 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, either during the sport or activity itself or while in training,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Notwithstanding subsection (1), the following acts shall not constitute as an offence of cruelty:

- (a) any acts to be accepted as veterinary procedures as prescribed in the Second Schedule;

- (b) any baiting of any pest animals for the purposes of public health, disease control, population control and relocation for conservation done by any lawful authority or any person approved by the Director;
- (c) feeding of animals as food for other animals in accordance with their natural eating habits; or
- (d) any acts for the purpose of customary, ceremonial and religious rites or rituals which has been issued a special permit.

(3) For the purpose of paragraph (2) (d), the Director may, upon written application of any person, issue such special permit.

Killing of animals

19. (1) No person shall kill by way of shooting with firearms any dog, cat or any other animal which may be prescribed by the Director by notification in the *Gazette*, unless it is authorised by the veterinary authority during emergency or for the purposes of disease control.

- (2) Notwithstanding subsection (1), the killing of any animal is prohibited unless-
- (a) the killing of the animal, other than dog, cat or any other animal which may be prescribed by the Director, is for the purpose of human consumption;
 - (b) the animal is incurably ill as determined and certified by a veterinary authority or a registered veterinary surgeon;
 - (c) the killing of the animal is deemed necessary to end the suffering of such animal as determined and certified by a veterinary authority or a registered veterinary surgeon;
 - (d) the killing is to prevent an imminent danger to the life or limb of a human being;
 - (e) the killing is done for the purpose of the animal population control by any authorized authority under any written law;

- (f) the killing is approved by the Director at the end of any research, testing and teaching procedures; or
- (g) the killing is for any other reasons as determined and certified by the veterinary authority.

(3) For the purposes of this section, "incurably ill" means an animal that is fatally wounded or sick with a grave prognosis certified by a veterinary authority or a registered veterinary surgeon.

(4) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Administration of poisons

- 20.** (1) Any person who without lawful authority or reasonable excuse -
- (a) administers any poisonous or injurious drug or substance to any animal; or
 - (b) causes any poisonous or injurious drug or substance to be taken by any animal,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) For the purposes of this section, "poisonous or injurious drug or substance" includes a drug or substance which, by virtue of the quantity or manner in which it is administered or taken, has the effect of a poisonous or injurious drug or substance.

Animal fighting activity

- 21.** (1) A person commits an offence if he -
- (a) causes an animal fight to take place, or attempts to do so;

- (b) receives money for the admission to an animal fight;
 - (c) publicizes a proposed animal fight;
 - (d) provides information about an animal fight to another person with the intention of encouraging attendance at the fight;
 - (e) makes or accepts a bet on a result of an animal fight;
 - (f) makes or accepts a bet on anything which may occur during the animal fight;
 - (g) takes part in an animal fight;
 - (h) has in his possession, anything designed or adapted for the purposes of an animal fight;
 - (i) keeps or trains any animal for the purpose of an animal fight; or
 - (j) has any premises which is used for animal fight.
- (2) No person shall, without lawful authority or reasonable excuse -
- (a) present at an animal fight; or
 - (b) supply, publish, show or possess an audio-visual recording of an animal fight.
- (3) Paragraph (2) (b) shall not apply -
- (a) if the audio-visual recording of an animal fight took place outside Malaysia; or
 - (b) if the supply of an audio-visual recording is for the purposes of its inclusion or, publication or showing in a film, documentary and news.

- (4) For the purposes of this section -

"audio-visual recording" means a recording, in any form, from which a moving image may by any means be reproduced and includes data stored in a computer, disc or by other electronic means which is capable of being converted to a moving image;

"supply of an audio-visual recording" means the supply of an audio-visual recording in any manner including any audio-visual recording in the form of the data stored electronically for the purposes of transmitting such data;

"publication or showing" means to publicize or show a moving image reproduced from an audio-visual recording by any means;

"animal fight activity" means any activity that involves a fight between at least two animal and is conducted for the purposes of sport, wagering or entertainment except the animals are expressing their natural behaviour; and

"animal fight" means an occasion on which an animal is placed with another animal or with a human, for the purposes of fighting, wrestling or baiting.

- (5) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Failure to exercise reasonable care and supervision

22. (1) Any person who fails to exercise reasonable care and supervision relating to the animal welfare or the protection of the animal from cruelty commits an offence under this Part or any offence relating to animal welfare within the meaning of this Enactment.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding seventy-five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART VI
ENFORCEMENT

Appointment of enforcement officers

23. The Director may in writing appoint any number of enforcement officers as may be necessary for the purposes of this Enactment.

Appointment of animal welfare volunteer

24. (1) The Director may, upon written application of any association or body relating to animal welfare registered under Societies Act 1966 [Act 335], appoint in writing any member of such association or body to be an animal welfare volunteer as he deems fit to assist the enforcement officer for the purposes of this Enactment.

(2) An animal welfare volunteer shall not exercise any powers under this Enactment or any subsidiary legislation made under this Enactment.

Authority card

25. (1) The Director shall issue an authority card to each enforcement officer which shall be signed by the Director.

(2) Whenever an enforcement officer exercises any of the powers under this Enactment or any subsidiary legislation made under this Enactment, he shall, on demand, produce to the person against whom the power is being exercised, the authority card issued to him under subsection (1).

Power of investigation

26. (1) An enforcement officer shall have the power to investigate the commission of an offence against this Enactment or any subsidiary legislation made under this Enactment.

(2) An enforcement officer may, in relation to an investigation in respect of an offence committed against this Enactment or any subsidiary legislation made under this Enactment, exercise the special powers in relation to police investigation except that of the

power to arrest without warrant in a seizeable offence given under the Criminal Procedure Code [Act 593] that may not be exercised by him.

Power of arrest

27. (1) An enforcement officer or a police officer may arrest without warrant any person whom he sees or finds committing or attempting to commit or whom he reasonably suspects of being engaged in committing or attempting to commit any offence against this Enactment or any subsidiary legislation made under this Enactment if the person -

- (a) refuses to give his name and residence;
- (b) gives a name or residence which has reason to believe to be false;
- (c) he is likely to abscond; or
- (d) gives his residence in a place not within Sabah.

(2) Every person so arrested under subsection (1) shall without unnecessary delay be handed over to the nearest police officer or in the absence of a police officer be taken to the nearest police station.

(3) The police officer shall re-arrest every person so arrested under subsection (1) and deal with it as provided for under section 24 of the Criminal Procedure Code.

Search and seizure without warrant

28. If an enforcement officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 56 of the Criminal Procedure Code the investigation would be adversely affected or evidence of the commission of an offence is likely to be tempered with, removed, damaged or destroyed, the enforcement officer may enter the premises or conveyance and exercise in, upon and in respect of the premises or conveyance all the powers referred to in section 56 of the Criminal Procedure Code in as full and ample manner as if he was authorized to do so by a warrant issued under that section.

Power to enter premises

29. Notwithstanding section 28, any enforcement officer may enter any premises for the purpose of -

- (a) inspecting any animal, carcass, conveyance, substance, document, computerized data or other thing as he considers necessary;
- (b) verifying the accuracy of records or statement or any information given to an enforcement officer; or
- (c) collecting samples of any animal, carcass, substance or other thing found in the premises as he thinks necessary for the purposes of analysis without any payment.

Access to computerized data

30. (1) An enforcement officer conducting a search under this Enactment shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of this section, "access" includes being provided with the necessary password, encryption code, decryption code, software or hardware or any other means required to enable the comprehension of computerized data.

Power to stop, search and seize conveyance

31. (1) If an enforcement officer has reasonable cause to suspect that any conveyance is carrying any animal, carcass, conveyance, substance, document, computerized data or other thing in respect of which an offence under this Enactment or any subsidiary legislation made under this Enactment is being or has been committed, he may stop and search the conveyance and may, if on examination he has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize the conveyance and any animal, carcass, conveyance, substance, document, computerized data or other thing found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the enforcement officer -

(a) stop the conveyance and allow the enforcement officer to examine it; and

(b) open all parts of the conveyance for search and take all measures necessary to enable or facilitate the carrying out of the search as the enforcement officer thinks necessary.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine of not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Power to seal premises or conveyance

32. (1) Where applicable and by reason of its nature, size or amount, it is not practicable to remove any animal, carcass, conveyance, substance, document, computerized data or other thing that has been seized in or on any premises or any animal, carcass, conveyance, substance, document, computerized data or other thing in any conveyance referred to in subsection 31 (1) seized under this section, the enforcement officer shall, by any means, seal such premises or conveyance from where the animal, carcass, conveyance, substance, document, computerized data or other thing was found.

(2) The owner, or the occupier of the premises or conveyance shall be responsible for the general care or the welfare of the animal if any, the overall maintenance and safe keeping of any animal, carcass, conveyance, substance, document, computerized data or other thing that has been sealed in the premises or conveyance referred to in subsection (1).

(3) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (1) or removes the animal, carcass, conveyance, substance, document, computerized data or other thing that has been sealed, or attempts to do so commits an offence and shall, on conviction, be liable to a fine of not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

List of things seized

33. (1) Where any seizure is made under this Enactment or any subsidiary legislation made under this Enactment, the enforcement officer making the seizure shall prepare a list of any animal, carcass, conveyance, substance, document, computerized data or other thing seized and of the place in which the animal, carcass, conveyance, substance, document, computerized data or other thing is found and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered immediately to -

- (a) the occupier of the premises where the animal, carcass, conveyance, substance, document, computerized data or other thing seized is found; or
- (b) the person in control or in charge of the conveyance, if the seizure is made under section 31.

(3) Where the seizure is made in or from any premises which is unoccupied, the enforcement shall whenever possible post a list of the things seized conspicuously at or on the premises.

Power to detain, dispose and destroy animal, carcass, etc.

34. (1) An enforcement officer or a police officer may detain any animal, carcass, conveyance, substance or other thing seized in respect of any offence under this Enactment until the conclusion of such criminal proceeding.

(2) If the Director is satisfied that, and where applicable, any of the said animal, carcass, conveyance, substance or other thing -

- (a) is subject to speedy and natural decay;
- (b) is liable to die or physically deteriorate within a short time;
- (c) is liable to depreciate in value within a short time;

- (d) is dangerous, toxic, harmful or poisonous substance such as banned and dangerous drugs or harmful and poisonous carcass or meat; or
- (e) the custody of which involves unreasonable expense and inconvenience,

he may order the animal, carcass, conveyance, substance or other thing to be destroyed or otherwise disposed of in such manner as the Director thinks fit, and the proceeds of sale, if any, shall be kept until the conclusion of such proceedings.

- (3) The Director may give an order under subsection (2) if -
 - (a) the owner or licensee has been given an opportunity to be heard; or
 - (b) the Director is satisfied that it is not reasonably practicable to communicate with the owner or licensee.

(4) The Director, in exercising his power under this section, shall have regard to the necessity of protecting value of the animal and avoiding any increasing of expenses which a person may be ordered to pay.

(5) The owner of the animal, carcass, conveyance, substance or other thing that has been detained under subsection (1) shall pay such sum as the Director may consider reasonable to cover the expenses connected with the removal to a place of detention and unless such sum is paid within a specified time the animal, carcass, conveyance, substance or other thing shall be forfeited.

- (6) For the purpose of this section, "animal" includes offspring of such animal.

Power to require attendance of person acquainted with case

35. (1) An enforcement officer making an investigation under section 26 may, by order in writing require the attendance before himself of any person who appears to the enforcement officer to be acquainted with the facts and circumstances of the case, and the person shall attend as so required.

(2) If the person refuses or fails to attend as so required, the enforcement officer may report such refusal or failure to a court who shall issue a summons to secure the attendance of the person as required by the order made under subsection (1).

Examination of person acquainted with case

36. (1) An enforcement officer making an investigation under section 26 may obtain information from any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person shall be legally bound to answer all questions relating to the case put to him by the enforcement officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not the statement is made wholly or partly in answer to questions.

(4) The enforcement officer obtaining information from a person shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make correction he may wish.

Admissibility of statements in evidence

37. (1) Except as provided in this section, no statement made by any person to an enforcement officer in the course of an investigation made under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to an enforcement officer in the course of an investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraph 32 (1) (a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to -

(a) the making; or

(b) the contents,

of any statement made by him to an enforcement officer in the course of investigation made under this Enactment, that statement may be used as evidence in the prosecution's case.

Cost of holding animal, etc., seized

38. If any animal, carcass, substance, document, computerized data or other thing seized under this Enactment is held in the custody of the enforcement officer pending the completion of any proceedings in respect of an offence under this Enactment, the cost of holding it in the custody shall, irrespective of whether any prosecution is instituted or otherwise against any person, be a civil debt due to the Government by such person and shall be recoverable accordingly.

No costs or damages arising from seizure to be recoverable

39. No person shall, in any proceedings before any court in respect of any animal, carcass, substance, document, computerized data or other thing seized in the exercise or the purported exercise of any power conferred under this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Obstructing officers in the execution of their duties

40. Any person who, without lawful excuse, obstructs or impedes or assists in obstructing or impeding any enforcement officer in the exercise of his duty under this Enactment or any subsidiary legislation made under this Enactment commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Enforcement officer may seek assistance to examine things

41. An enforcement officer may seek the assistance from any person who has the necessary qualifications to examine any animal, carcass, substance or other thing seized or detained under this Enactment for the purpose of an investigation under this Enactment.

PART VII

ANCILLARY POWER OF THE COURT

Second or subsequent offence

42. Any person guilty for a second or subsequent similar offence under this Enactment or any subsidiary legislation made under this Enactment shall, on conviction, be liable to a fine not exceeding twice the original sum of fine for that offence or to imprisonment for a term not less than three months.

Deprivation

43. (1) Where a person is convicted of an offence under any section 18, 19, 20 or 21 and he is the owner or the licensee in relation to which the offence was committed, the court before which he is convicted may, instead of or in addition to dealing with the owner or licensee in any other way, make an order to deprive the ownership of the animal from the owner or the licensee, or make an order for the animal to be disposed or destroyed.

(2) Where the owner or the licensee of an animal is convicted of an offence under subsection 44 (3) as a result of a breach of an order under subsection 44 (1), the court before which he is convicted may, instead of or in addition to dealing with the owner or

licensee in any other way, make an order to deprive the ownership of the animal from the owner or the licensee, or make an order for the animal to be disposed or destroyed.

(3) If the animal in respect of which an order made under subsection (1) or (2) has any offspring, the court may include in the order the deprivation of the ownership of the offspring or for the said animal to be disposed or destroyed.

(4) If the court makes an order under subsection (1) or (2), the court may -

- (a) appoint any enforcement officer to carry out or arrange for the carrying out of the order; and
- (b) order the owner or the licensee to pay the expenses of carrying out such order.

Disqualification

44. (1) Where a person is convicted of an offence under section 5, 14, 16, 17, 18, 19, 20 or 21 the court before which he is convicted may, instead of or in addition to dealing with him in any way, make an order to disqualify him for a period not more than one year from

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- (a) owning animals;
- (b) keeping animals;
- (c) participating in the keeping of animals; and
- (d) being a party to an arrangement under which he is entitled to control or influence the way in which animals are kept.

(2) The court may -

- (a) suspend the operation of the order pending an appeal; or
- (b) where it appears to the court that the person owns or keeps any animal to which the order applies, suspend the operation of the order and of any order made under section 45 in connection with the

disqualification, for such period as it thinks necessary to enable alternative arrangements to be made in respect of the animal.

(3) Any person who contravenes a disqualification order under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Seizure of animals in connection with disqualification

45. (1) Where a person is convicted of an offence under subsection 44 (3) in breach of an order under paragraph 44 (1) (a) or (b), the court before which he is convicted may order that all animals be taken into possession by the enforcement officer.

(2) An order under subsection (1), relating to any animal owned by the person subject to the disqualification under section 44, shall have effect as an order under section 43.

(3) The court before which an order was made under this section may -

(a) appoint an enforcement officer to carry out or arrange for the carrying out of the order; and

(b) order the person to pay the expenses of carrying out such order.

Power of court to order destruction of animal

46. (1) The court before which a person is convicted of an offence under section 14, 17, 20 or 21 may order the destruction of an animal in relation to which the offence was committed, if the court is satisfied, on the basis of the evidence given by an enforcement officer or a veterinary authority that it is appropriate to do so in the interests of the animal.

(2) If the court makes an order under subsection (1), the court may -

(a) appoint an enforcement officer to carry out or arrange for the carrying of the order; and

- (b) order the person, if any, to pay the expenses of carrying out of the order.

Forfeiture of item used in or related to the offences

47. (1) Where any person is convicted of an offence under this Enactment or any subsidiary legislation made under this Enactment, the court may order any item relating to the offence and the proceed of any sale, if any, to be forfeited, destroyed or dealt with in such manner as may be specified in the order.

(2) Where any item related to the offence has been seized under this Enactment but the person who is alleged to have committed the offence is unknown or cannot be found, the court may, if it is satisfied that an offence has been committed, order that such item relating to the offence to be forfeited.

(3) No order of forfeiture shall be made in respect of a conveyance unless the name of the owner and the place of his residence is known and that he is given an opportunity to be heard.

(4) Where there is proceed from any sale of such item relating to the offence seized under this Enactment, the court may, if it is satisfied that an offence has been committed, order that such proceed to be forfeited.

(5) For the purposes of this section, "item" means any things or substance in respect of which an offence has been committed and which is a subject matter in relation to the evidence necessary to establish the commission of the offence.

PART VIII
MISCELLANEOUS

Offences by body corporate and by agents and servants

46. (1) Where a body corporate commits an offence under this Enactment or any subsidiary legislation made under this Enactment, any person who at the time of the commission of the offence was a director, chief executive officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in

any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management -

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) where the body corporate is found to have committed of the offence, shall be deemed to commit that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves -
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) If any person would be liable under this Enactment or any subsidiary legislation made under this Enactment to any punishment or penalty for his act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of his employee of the agent, if the act, omission, neglect or default was committed -

- (a) by that person's employee in the course of his employment;
- (b) by the agent when acting on behalf of that person; or
- (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

General penalty

49. (1) Any person who commits an offence under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any body corporate which commits an offence under this Enactment for which no penalty is expressly provided, shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Compounding of offences

50. (1) The Director may compound any offence committed by any person under this Enactment or any subsidiary legislation made under this Enactment and prescribed to be a compoundable offence by making a written offer to such person to compound the offence upon payment to the Director of such amount not exceeding fifty per centum of the amount of the maximum fine for that offence within such time as may be specified in that order.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before prosecution for it has been instituted.

(3) If the amount specified in the offer made under subsection (1) is not paid within the time specified in the offer or within such extended period as the Director may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of such offence against the person to whom the offer to compound was made and any animal, carcass, substance, document, computerized data or other thing seized under this Enactment or any subsidiary legislation made under this Enactment in connection with the offence may be released or forfeited by the Director, subject to such terms and conditions as the Director thinks fit to impose in accordance with the conditions of the compound.

Prosecution

52. No prosecution for any offence under this Enactment or any subsidiary legislation made under this Enactment shall be instituted except by or with the consent in writing of the Public Prosecutor.

Protection against suits and legal proceedings

- 52.** No action shall lie or be brought, instituted or maintained in any court against -
- (a) Director, veterinary authority or enforcement officers; and
 - (b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Director, veterinary authority or enforcement officers,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provision of this Enactment.

Photograph of animal, etc., to be admissible as evidence

- 53.** Photograph or a copy of the photograph of any animal, carcass, conveyance, substance or other thing shall be admissible as evidence in court if it involves unreasonable expenses or inconvenience for the animal, carcass, conveyance, substance or other thing to be brought to court.

Power to make regulations

- 54.** (1) The Minister may make regulations as may be necessary or expedient for the better carrying out of the provisions of this Enactment.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations -
- (a) to prescribe all matters relating to the welfare of animals;
 - (b) to prescribe all matters relating to the handling of animals;
 - (c) to prescribe all matters relating to animals used in research, testing or teaching;
 - (d) to prescribe all matters relating to the managing and up keeping of establishment where animals are kept;

- (e) to prescribe matters relating to the maximum load, including any load occasioned by the weight of passengers, to be carried or drawn by any animal;
- (f) to prescribe all matters relating to the precautions to be taken in the transport of animals whether by land, inland waterway, sea or air and in the cages or other receptacles or any manner in which the animal may be so transported;
- (g) to prescribe all matters relating to the slaughter of animal;
- (h) to prescribe all matters relating to the training, upkeep, exhibition, display, or depiction of performing animal or the breeding or sale of animals;
- (i) to prescribe all matters relating to animal housing;
- (j) to prescribe all matters relating to licensing;
- (k) to prescribe fees payable under this Enactment;
- (l) to prescribe the offences which may be compounded;
- (m) to prescribe all matters relating to the qualifications, experiences, conduct and duties of the animal welfare volunteer;
- (n) to prescribe all matters relating to an improvement notice;
- (o) to prescribe training activities for animal welfare volunteer; and
- (p) to provide for such other matters as are contemplated by, or necessary for giving full effect to the provisions of this Enactment.

(3) The regulation made under this Enactment may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding thirty thousand ringgit or imprisonment for a term not exceeding six months or both for such offence.

Power to amend Schedule

55. The Minister may, after consultation with the Director, amend the Schedule by order published in the Gazette.

PART IX
REPEAL AND TRANSITIONAL

Repeal

56. The Cruelty to Animals (Prevention) Ordinance (Cap.31) is repealed.

Transitional provisions

57. (1) Any person who, on the date of the coming into operation of this Enactment, has been undertaking an activity to which this Enactment applies shall, within six months from the date of the coming into operation of this Enactment, apply for a licence under section 6.

(2) Pending the determination of such application, such person may continue to undertake the existing activity.

(3) Where an application for a licence is refused, the Director shall notify the applicant of the refusal in writing and order to stop the activity within the period specified in the notice.

FIRST SCHEDULE

[Subsection 5 (1)]

Activities involving animals

The following activities are regarded as activities involving the use of animals for the purposes of this Enactment:

1. Animal boarding
2. Animal riding and spelling
3. Performing animal
4. Breeding of animal
5. Research, testing and teaching on animal
6. Animal rescue and rehabilitation
7. Activities relating to animal pound and animal shelters
8. Quarantine of animals
9. Animal training
10. Captivity of live animal for sale activities
11. Captivity of live animal for conservation or entertainment activities
12. Animal care or treatment
13. Slaughtering of animals
14. Animal disposing
15. Strays controlling by any individual, organization or body corporate

SECOND SCHEDULE

[Paragraph 18 (2) (a)]

Veterinary Procedures

1. Prevention of animal disease
2. Diagnosis, prescription and treatment of animal disease
3. Correction, change or relief of deformity, defect, injury or other physical or mental conditions
4. Administration or application of any drug, medicine, biologics, apparatus, anaesthetic or other therapeutic or diagnostic substance or technique
5. Manual or mechanical procedure for artificial insemination, testing for pregnancy or for correcting sterility or infertility
6. Fistulation
7. Dehorning
8. Nose roping
9. Ear notching
10. Ear tagging
11. Micro-chipping
12. Making marks on animal
13. Clipping of tails, furs, horns, tusks or nails
14. Desexing of any animal
15. Any other procedure recognized to be a duty of a veterinary authority, veterinary surgeon performed by a veterinary surgeon or any person authorized in writing by the Director