

## **Prevention Of Cruelty To Animals Act, 1990**

**13 of 1990**

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## **Prevention Of Cruelty To Animals Act, 1990**

**13 of 1990**

Whereas it is expedient to consolidate the law relating to the prevention of cruelty to animals; it is hereby commanded as

follows:-

### **1. Short Title, Extent, Repeal And Saving :-**

(1) This Act may be called the Prevention of Cruelty to Animals Act, 1990.

(2) This Act extends to the towns of Jammu and Srinagar and all roads known as metalled and unmetalled roads in the Jammu and Kashmir State, which are open to wheeled traffic.

(3) The Regulation of the Prevention of Cruelty to Animals dated 30th April, 1912, Regulation No. 6 of 1989, and Notification No. 103 of 24th June, 1914 and No. 10-L of 1989 are hereby repealed.

(4) All rules, bye-laws, notification, etc., issued heretofore shall, so far as they relate to the prevention of cruelty to animals, cease to be operative from the date on which this Act is enforced.

### **2. Definitions :-**

In this Act, unless there is something repugnant to the context,-

(1) "animal" means any domestic or captured animal <sup>1</sup>[or bird];

(2) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a through-fare or not, to which the public have access.

<sup>1</sup> Inserted by Act II of 1999.

### **3. Penalty For Cruelly Beating Animals In A Public Place, Etc :-**

<sup>1</sup>[ If any person-

(a) overdrives, beats or otherwise treats any animal so as to subject it to unnecessary pain or suffering, or

(b) binds, keeps, carries or consigns for carriage any animal in such manner or position as to subject it to unnecessary pain or suffering, or

(c) offers for sale or without reasonable cause has in his possession any live animal which is suffering pain by reason of mutilation, starvation, thirst, over-crowding or other ill-treatment, or

(d) offers for sale any dead animal or part of a dead animal which he has reason to believe has been killed in an unnecessarily cruel manner, or

(e) without reasonable cause abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst, he shall be punished, in the case of a first offence, with a

fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month and, in the case of a second or subsequent offence committed within three years of the previous offence with a fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.]

1 Section 3 substituted by Act II of 1999.

**3A. Penalty For Overloading :-**

1[(1) If any person overloads any animal, he shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

(2) If the owner of any animal, or any person who, either as a trader, carrier or contractor or by virtue of his employment by a trader, carrier or contractor, is in possession of, or in control of the loading of, any animal permits the overloading of such animal, he shall be punished with fine which may extend to one hundred rupees.]

1 Section 3-A inserted by Act II of 1999.

**4. Penalty For Using A Cow For Dragging A Plough :-**

If any person uses a cow for dragging the plough, he shall be punished with simple imprisonment which may extend to one month or with fine which may extend to Rs. 50, or with both.

**5. Penalty For Performing Phooka Operation Upon Any Cow :-**

1[ If any person performs upon any cow or other milch animal the operation called phooka or permits such operation to be performed upon any such animal in his possession or under his control, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Explanation. - Phooka includes any process of introducing air or any substance into the female organ of a milch animal with the object of drawing off from the animal secretion of milk.

1 Section 5 substituted by Act II of 1999.

**6. Penalty For Recklessly Driving Animals And Doing Other Such Acts Within The Towns Of Jammu And Srinagar And**

## **On The Roads To Which This Act Is Made Applicable :-**

Any person who in any street within the limits of the towns of Jammu and Srinagar or on the roads to which this Act is applicable commits any of the following offences, shall, on conviction before a 1[Judicial Magistrate] be liable to a fine 2[which may extend to rupees one hundred] and in default of payment thereof to simple imprisonment 3[which may extend to three weeks,] namely:-

Ist. - Any person who rides or drives any animal recklessly or furiously and thereby is likely to cause cruelty to the said animal;

2nd. - Any person who wantonly or cruelly beats, abuses or tortures any animal;

3rd. - Any person who keeps any animal or conveyance of any kind driven by animal standing harnessed longer than is required for loading or unloading or for taking up or setting down passengers and thereby is likely to cause suffering to any animal;

4[4th. - Any person who incites any animal to fight or baits any animal or aids or abets such incitement or baiting.]

1 Substituted by Act XL of 1966.

2 Substituted by Act II of 1999 for "not exceeding Rs 50".

3 Substituted *ibid*.

4 Substituted by Act II of 1999.

## **7. Penalty For Killing Any Animal In An Unnecessarily Cruel Manner :-**

If any person kills any animal in an unnecessarily cruel manner, he shall be liable to be punished with fine extending to 1[rupees one hundred] and in default of its payment to simple imprisonment for a term 2[which may extend to three weeks.]

1 Substituted by Act II of 1999 for "not exceeding Rs 50".

2 Substituted *ibid*.

## **7A. Penalty For Being In Possession The Skin Of A Goat Killed With Unnecessary Cruelty :-**

If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.

## **7B. Presumption As To Possession Of The Skin Of A Goat :-**

If any person is charged with the offence of killing a goat contrary to the provisions of section 7, or with an offence punishable under section 7-A, and it is proved that such person had in his possession, at the time the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.

## **8. Penalty For Employing Unfit Animal :-**

If any person employs any animal in any work or labour which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed or permits any such animal in his possession or under his control to be so employed, shall to be punished with a fine extending to Rs. 50 and in default of its payment, to simple imprisonment for two weeks. In such cases the 1[Judicial Magistrate] may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to the State Veterinary Hospital and be there detained until it is in the opinion of a Veterinary or Medical Officer again fit for the work or labour on which it has been ordinarily employed.

1 Substituted by Act XL of 1966.

## **8A. Person In Possession Liable In Certain Cases :-**

1[ For the purposes of sections 3-A and 8, owner or other person in possession or control of an animal shall be deemed to have permitted an offence if he has failed to exercise reasonable care and supervision with a view to prevention of such offence and, for the purposes of section 5, if he fails to prove that he has exercised such care and supervision.]

1 Inserted by Act II of 1999.

## **9. Owner Of Animal To Pay Cost Of Feeding :-**

The cost of the feeding and treatment of the animal shall be payable by the owner of the animal according to such scale as the Veterinary or (where there is no Veterinary Hospital) the Municipal authorities may from time to time prescribe.

## **10. Procedure When Owner Refuses To Pay Cost :-**

If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Veterinary or (where there is no Veterinary Hospital) Municipal authorities may direct, the animal will be liable to be sold and the proceeds of the sale shall be paid to the owner on application made by him within one month after the date of the sale, but the owner shall not be liable to make any payment in excess of the proceeds of the sale. The deficit, if any will be made good by the Municipality, or (where there there is no Municipality) by the Veterinary Department.

## **11. Penalty For Wilfully Permitting Any Animal To Go At Large :-**

No person shall wilfully permit any animal of which he is the owner to go at large in any street within the towns of Jammu and Srinagar or on the roads to which this Act is applicable while the animal is affected with contagious or infectious disease or is suffering from infirmity or disabled by disease or otherwise or without reason- able excuse permit any diseased or disabled animal of which he is the owner to die in any street. Any person found guilty of the above offence shall be liable to a fine which may extend to Rs. 50 or to undergo simple imprisonment not exceeding eight days in default of the payment of the said fine.

### **11A. Special Power Of Search And Seizure In Respect Of Certain Offences :-**

If a Police Officer, not below the rank of a Sub-Inspector, has reason to believe that an offence under section 7, in respect of a goat, is being or is about to be or has been committed in any place, or that any person has in his possession the skin of a goat, with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin, and any article or thing used or intended to be used in the commission of such offence.

## **12. Magistrate Empowered To Destroy A Horse, Mule Or Donkey Suffering From A Painful Disease :-**

(1) If a horse or mule or donkey is suffering from a painful,

incurable or contagious disease and its sufferings are such as to justify its destruction, it shall be lawful for any Magistrate to order its destruction, if a Veterinary Officer not below the rank of a Veterinary Assistant has certified in writing that such destruction is absolutely necessary. When any animal is destroyed in this manner, no claim for compensation will be maintainable,

1[(2) Any Police Officer who finds any horse, mule or donkey so diseased or injured or in such physical condition that it cannot, in his opinion, be removed without cruelty, may, if the owner is absent or refuses to consent to the destruction of the animal, summon the nearest Veterinary Officer and if the Veterinary Officer certifies that the animal is mortally wounded, or so injured or diseased that its destruction is desirable, the Police Officer may, without the consent of the owner, destroy the animal or cause it to be destroyed.]

1 Section 12(2).added by Act II of 1999.

### **13. Inquiry To Be Made If Offence Reported By Certain Societies Or Individuals :-**

Any member of a society duly constituted for the prevention of cruelty to animals, if and when formed in the towns of Jammu and Srinagar, or any responsible private individual or officer of the State may give information in writing to the Municipality or to a Magistrate or to Police Officer of the commission of any offence against this Act within his knowledge or sight and may help in the prosecution of the offender. Upon such report an inquiry shall be made and complaint made in the 1[Court of Judicial Magistrate] by an officer not lower in rank than an Inspector appointed under section 16 of this Act, a Naib-Tehsildar, a Deputy Inspector of Police, a Municipal Secretary or a Veterinary Assistant.

1 Substituted by Act XL of 1996.

### **13A. Protection :-**

1[ No suit, prosecution or other legal proceedings shall lie against any person who is or who is deemed to be, a public servant within the meaning of section 21 of the Ranbir Penal Code, in respect of anything done or intended to be done in good faith under this Act.]

1 Section 13-A added by Act II of 1999.

### **14. Trials To Be Summary :-**

All trials for offences against this Act shall be summary. 1[xxxx]

1 Words omitted by Act XL of 1966.

## **15. Authorised Maximum Weight To Be Loaded On Animals**

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The following is the authorised maximum weight to be loaded on the animals and the vehicles specified below:-

Explanation 1. - For the purposes of this section each passenger will be considered to be two maunds in weight.

1[Explanation 2. - A kharwar will be equal to 83 seers.]

2[(a) Pack pony to carry a load not more than 11/2 kharwar or 21/2 maunds in weight. Pack ponies under employment on Ladakh Treaty Road to carry a load of not more than 21/2 maunds in weight.]

(b) Pack bullock to carry not more than 21/4 to 3 maunds.

(c) An ekka not to carry more than 4 passengers including the driver and 21/2 maunds luggage.

3[(cc) a Tonga drawn by one pony or horse not to carry more than four passengers excluding the driver and 11/2 maunds luggage.]

(d) A Tonga drawn by two ponies to carry not more than 4 passengers including the driver (but excluding the syce) and 3 maunds of luggage.

(e) A mule to be treated as a pony for carrying weight.

(f) A camel not to carry more than 6 kharwar or 4[6] maunds.

5[(g) A donkey not to carry more than 1 kharwar or 2 maunds.]

(h) A Bareilly-cart or Tumtum drawn by one pony not to carry more than 5 passengers including the driver and 21/2 maunds of luggage.

(i) A Phaeton or Landau drawn by two horses not to carry more than 5 passengers excluding the driver and syce and 2 maunds of luggage.

(j) A cart drawn by one bullock shall not carry more than 7 maunds of load besides the driver.

(k) A cart drawn by 2 bullocks shall not carry more than 20 maunds.

(l) A cart drawn by 3 bullocks shall not carry more than 30 maunds.

(m) A cart drawn by 4 bullocks shall not carry more than 40 maunds.

(n) A rehra drawn by one horse shall not carry more than 9 maunds.

(o) A rehra drawn by 2 horses shall not carry more than 16



maunds.

1 Explanation 2 added by Act V of 1991.

2 Clause (a) substituted by Act V of 1991.

3 Clause (cc) added by Act XIV of 1959.

4 Substituted by Act XVIII of 1998 for "4".

5 Clause (g) substituted by Act V of 1991.

## **16. Appointment Of Inspectors And Their Powers :-**

The Government of Jammu and Kashmir may appoint Inspectors for the purpose of carrying out the provisions of this Act.

The Inspector for prevention of cruelty to animals may detain a driver of any animal which is overloaded, galled, sick or suffering from any disease or weakness making it unfit for use and for reward him together with such animals to Court for prosecution, if an immediate trial is possible.

If any immediate trial is not possible, the Inspector shall release the accused on a bond amounting to not more than Rs. 25 with or without sureties of a like amount to appear in a particular Court on a particular date.

The Inspector shall have also authority to hand over the offenders with their animals to the police for prosecution in a Court and the police shall then take action in the manner prescribed above.

## **17. Prosecution To Use Authority Without Unnecessary Harassment To Employers Of Animals :-**

Any officer employed to prosecute and enforce this Act shall use his authority with as little inconvenience, delay or harassment to the employers of animals or of the vehicles drawn by these animals as is reasonably possible.

## **18. Penalty For An Offence Under Section 17 :-**

Any such officer found guilty of annoying or interfering with the owners of any animals or other drivers or the passengers using a vehicle drawn by an animal or animals without just and sufficient cause will be liable to a fine not exceeding half months emoluments of that officer or in default to undergo one weeks simple imprisonment. Any such officer shall, on second conviction under this Act, be liable to be dismissed from his office in addition to the punishment provided under this section.

Nothing contained in this Act shall be construed to prevent any

person from being prosecuted under any other law for any offence made punishable by this Act or from being liable under any other law to any other higher penalty or punishment than is provided for in this Act:

Provided that, no person shall be punished twice for the same offence.

### **19. Powers To Frame Bye-Laws :-**

The 1[Government or any officer appointed by the Government in this behalf] may frame bye-laws in consonance with the objects of this Act where and when necessary.

1 Substituted for "Minister in charge of the Municipalities" and the words "with the sanction of His Highness the Maharaja Bhadur" at the end deleted by the Act X of 1996.