

BENGAL ACT NO 1 OF 1920
THE BENGAL Cruelty TO ANIMALS
ACT, 1920

(Published in the Calcutta Gazette of the February, 1920)

An act to consolidate and amend the law relating to the prevention of cruelty to animals in Bengal ;
It is hereby enacted as follows:

1. (1) This Act may be called the Bengal Cruelty (Short title, commencement and extent.)
(2) It shall come into force on such date as the local government may, by notification, direct.
(3) Except as otherwise hereinafter provided, this act shall extend only to Calcutta; but it may be extended by the Local Government notification, to any other town or place.

2. (1) The following enactments, namely, Repeal.
Act I (a) the Bengal Cruelty to Animals Act, 1869;
Act III (b) The Bengal Cruelty to animals (Arrest) Act, 1869; and
Act III (c) the Bengal Cruelty to animals Act, 1900

shall be deemed to be repealed —

- (1) In Calcutta, from the date of the commencement of this Act, and
(11) in any other town or place to which this Act may hereafter be extended under extended under section I, sub-section (3), from the date of such extension.

(Preliminary, Offences, Sections 3,4)

(2) Such repeal shall not affect the validity of anything done or suffered of any obligation or liability which may have accrued, under any of the said Acts, so far as they are consistent with this Act, be deemed to have been respectively incurred or done hereunder.

(3) All proceeding pending under any of the said Acts, in Calcutta or in any other town or place, at the date when this Act comes into operation therein, shall be deemed to have been commenced under this Act.

3. In this Act, unless there is anything repugnant in the subject or context, ---

- (1) "animal" means any domestic or captured animal;
(2) "Calcutta" means the area described in schedule 1 to the Calcutta Municipal Act, 1899;
(3) "the Corporation" means the Corporation of Calcutta; and
(4) "notification" means a notification published in the Calcutta Gazette.

Offences

Penalty for cruelty
to animals and for sale
of animals killed with
unnecessary cruelty.

4. If any person-

- (a) overdrives, cruelty or unnecessarily beats, or otherwise ill-treats any animals, or otherwise ill—treats any animal, or

The Bengal Cruelty to Animals Act, 1920.

(Preliminary, offences,-Sections 3, 4)

(b) binds, keeps or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) Offers, exposes or has in his possession for sale any live animal which is suffering, pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished for ever such offence with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Offences—Sections 5—8.

5. If any reason overloads any animal he shall be punished with fine which may extend to one hundred rupees with imprisonment for term which may extend to three months, or with both, and

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(Rules— miscellaneous-Sections 30)

carrying out the provisions of the proviso to sub-section (3) section 19, and of section 20 in regard to the disposal of loads;

Prescribing the manner which fines realised under this Act, and proceeds realised under section 20 and section 24, sub section (2); will be applied.

(j) for carrying out the provisions of section 24, subsection (6) in regard to the disposal of animals and

(k) for regulating the destruction of animals under section 25.

Miscellaneous.

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| Delegation of powers. | 30. The Local Government may delegate, under such restrictions of powers as they consider fit, any of the powers conferred upon them by sections 13,14,15,16,18 and 24, subsection(2), of this Act to any person or local authority. | |
| Appointments made by local authority | 31. Every appointment made by a local authority under section made by local 15, in exercise of the power delegated to it under section 30, shall be deemed to be an appointment made under the Act by which such local authority is constituted. | |
| Limitation of time for pro-secutions. | 32. A prosecution for an offence against this Act shall not be institution after the expiration of three months from the date of the commission of such offence. | |
| Persons appointed under section 15, 16, 18 or 21 to be public servants. | 33. Every person appointed under section 15, 16, 18 and 21 shall be deemed to be a public servant within the meaning of section 21 of the Indian penal Code for anything which is, in good faith, done or intended to be done under this Act. | |
| Indemnity. | 34. No suit, prosecution or other legal proceeding, shall ill against any person who is, or who has been declared to be, a public servant within the meaning of section 21 of the Indian Penal Code for anything which is, in good faith, done or intended to be done under this Act. | |
| Ben. Act III of 1899 Ben. Act. III of 1884. Ben. Act III of 1885. | 35. Notwithstanding anything contained in the Calcutta Municipal Act, 1899, the Bengal Municipal Act, 1884, or the Bengal Local Self-Govt. Act of 1885, the Cooperation, the commissioners of a Municipality or the District Board may provide from the funds at their disposal such sums as may be necessary for paying the expenses incidental to the exercise of any of the powers delegated to them under section 30. | Power of local authority to pay certain expenses. |
| | 36. Whenever this Act is extended to town or public outside Calcutta, under section 1, sub-section (3), the Local Govt. may, by notification, appoint persons by name or by official designation, exercise and perform in such town or place the same powers and duties as are conferred or imposed by this Act on the Commissioner of Police. | Effect when Act is extended outside Calcutta. |

Arrest of offenders :-

Procedure.

26. (1) Any police-officer may arrest without warrant any police committing in his view any offence against this Act, or any petition against whom he has received credible information of having --- offence against this Act, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) When the true name and address of a person arrested under sub-section(1) have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) If the true name and address of such person is not ascertained within twenty-four hours from the time of arrest, or if he fails to execute the bond, or xx is so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Special power of search and seizure in respect of certain offences.

27. If a police-officer, not below the rank of sub-Inspector, has reason to believe that an offence against section 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 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.

(Procedure-Rules-Sections 28-29).

26. (1) If a presidency Magistrate, a Magistrate of the first class, the Commissioner of police, or a Deputy Commissioner of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 6, section 7, section 10 is being or to about to be, or has been, committed in any place, he may, at any time by day or by night, without notice, either himself enter and search, or, by his warrant, authorize any police officer above the rank of a constable to enter and search, the place.

(2) The provisions of the Code of Criminal procedure, 1898, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search made under sub-section(1) or under section 27.

Rules.

Power of Local Govt. to make rules.

29. (1) The Local Government may, from time to time, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules--

(a) prescribing the maximum weight of the loads to be carried on or drawn by animals;

(b) for prescribing the overcrowding of animals;

(c) for regulating the use of tests and the manner of examination of animals;

(d) Prescribing the qualifications of persons to be appointed to be Veterinary Inspectors and weighbridge officers;

(e) Prescribing the procedure to be followed offer removal a load under section 17, sub-section(2), or under section 18;

(f) prescribing the particulars to be entered in the register maintained under section 19, sub-section(3);

(g) prescribing such other forms or registers as may be required for carrying out the purpose of this Act.

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(1) For the purposes of the examination of an animal sent to a inspector in accordance with the provisions of section 21, he may the animal to any test which the Local Government may prescribing rules made under section 29.

(2) If, on such examination, the Veterinary Inspector is of opinion that the animal is unfit to be employed on the work or labour on which it was employed at the time of its seizure, he shall either send the animal for treatment and care to an infirmary appointed under section 14, and inform the owner of the animal of his having done so, or (if he considers that a persecution is necessary, or if the owner of the animal so elects) direct the prosecution of the offender and produce the animal before the Magistrate.

23. The Magistrate before whom a prosecution for any offence under this Act has been instituted may, if he thinks fit, direct that the animal, in respect of which the offence is alleged or proved to have been committed, shall be sent for treatment and care to an infirmary appointed under section 14.

24. (1) When, any animal has been sent to an infirmary in accordance with the provisions of section 22, sub-section(2), or of section 23, it shall be detained there until, the opinion of the officer in-charge of the infirmary, it is cured, or again fit for the work or labour on which it is the intention of the owner to employ it.

(2) The cost of the treatment, feeding and watering of the animal, in the infirmary shall be payable by the owner of the animal, according to such scale of rates as the Local Government may prescribed.

(3) If the owner refuses or neglects to pay such cost, or to remove the animal within such time as the officer in charge of the infirmary may direct that the animal be sold and the proceeds of the sale be supplied to the payment of such cost.

(4) The surplus, if any, of the proceeds of the sale shall, on application to be made by the owner within two months after the date of the sale, be paid to him; but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

(5) If no application is made by the owner for the surplus sale-proceeds within the period prescribed under sub-section(4), these proceeds shall be applied in such manner as the Local Government may prescribe by rules made under section 29.

(6) If an animal cannot be sold under sub-section(3) the officer in charge of the infirmary may dispose of it in such manner as the local Government may prescribe by rules made under section 29.

25. (1) When any Magistrate, the Commissioner of Police, or any Deputy Commissioner of Police has reason to believe that an offence against this act has been committed in respect of any animal, the Magistrate, Commissioner of Police or Deputy Commissioner of Police may direct the immediate destruction of the animal, if, in his opinion, its physical condition is such as to render such a direction proper.

(2) When any animal is sent to an infirmary in accordance with the provisions of section 22, sub-section(2) ,or of section 23, the officer in charges of the infirmary may direct the immediate destruction of the animal if, in his opinion, its physical condition is such as to render such direction proper, or if he consider it to be permanently unfit for work by reason of old age or some incurable disease:

Provided that no order directing destruction shall be made in respect of any bull, bullock or cow which is unfit for work by reason only of old age.

(3) Any police-officer who finds any animal so diseased, or so severely injured, or in such a physical condition, that it cannot without cruelty be removed shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon the Vety. Inspector in charge of the area in which the animal is found and, if the Vety. Inspector certifies that the animal is totally injured, or so diseased, or in such a physical condition, that it is to keep it alive, the police-officer may, without the consent of the owner, kill the animal or cause it to be killed.

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Unfit animal to be taken to veterinary inspector.

18. Any police-officer, or any other person by the Local Government in this behalf, owner to believe that an offence against section committed in respect of any animal, shall send it, together with its load, if any, and the person in charge of the animal, to the weighbridge if any for the area, within which such seizure is made, the case, of there being no weighbridge appointed the area, to the nearest police-station, and shall the load forthwith and report the fact of such seizure to the Veterinary Inspector in charge of that area.

Excess load to be treated as unclaimed property in certain circumstances.

19. (1) Any excess to remove from an animal under section 1, sub-section(2), and any load which was being carried by an animal seized under section 18, and taken to the weighbridge, shall be kept by the weighbridge-officer, at the risk of the owner of such load the weighbridge, or at any other place appointed by the Local Government for this purpose, and, if not removed, the owner within forty-eight hours, shall be made over by the weighbridge to the police and removed to the nearest police-station.

(2) Any load which was being carried by an animal seized under section 18 and taken to a police-station, shall be kept by the officer in charge of the police station, the police-station, or at any other place appointed by the local Government for this purpose. The said load shall be kept during the first forty-eight hours of such detention at the risk of the owner thereof, and may remove the same during that period.

(3) The officer in charge of the police-station shall--

(a) in the case of any load removed to the police station under a section (1) and,

(b) in the case of any load referred to in sub-section (2) if not removed by the owner within forty-eight hours.

enter, in a register to be kept for the purpose such particulars the load as may be prescribed by rules made under section 29, and the load shall thereafter be returned to the person who proves to the satisfaction of the Commissioner of Police that the same belongs to, him, on payment of all costs incurred in the removal and detention of such load.

Provided that if the load, or any part thereof of article which are subject to speedy and natural decay, or consists of livestock that load, or part thereof, may forthwith be sold or otherwise disposed of under the orders of the Commissioner of public in accordance with rules made under section 29: and, the sale-proceeds, after deducting therefore all expenses incurred in the removal, detention and sale of entire load, shall be made over to the owner, on proof of his ownership within six months from the date of entry in the registrar.

20. If within six months from the date of entry in the register person satisfies the Commissioner may cause it to be sold or otherwise disposed of in accordance with rules made under section 29, and the proceeds of the sale under this section, or of the sale under the proviso to sub-section 19, after deducting therefrom all expenses be applied in such manner as the Local Government may prescribe by rules made under section 29.

21. Any police-officer, or any other person duly authorised by Local Government in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, may, if the circumstances so require, seize the animal and produce the same for examination by the veterinary Inspector in charge of the area in which the animal is seized.

(2) The police officer or person who seizes any animal under the sub-section(1) require the person in charge of the animal to accompany it to the place examination.

For the purpose of this section and owner or other occurred to in clauses(1) and(2) above shall be deemed to have used such employment if he shall have failed to exercise reasonable and supervision in respect of the protection of the animal therefrom.

(Offences--Weighbridge and infirmaries-sections 11-15)

11. If any person--
(a) incites any animal to fight, or
(b) beits any animal, or
(c) aids or abets any one in such incitement or baiting , he shall be punished with fine which may extend to fifty rupees.

Penalty for baiting animals, or inciting them to fight.

12. If any person wilfully allows any animal of which he penalty for is the owner of diseased which he is in charge to go at large in any public place while the animal is affected animals to die with contagious or infectious diseases, or without reasonable excuse, allows any in public places. diseased or disabled animal of which he is the owner or of which he is in charge to go at large or die in any public place, he shall be punished with fine which may extend to one hundred rupees.

Weighbridges and infirmaries

Weighbridges.

13. (1) The Local Government may appoint the places at which weighbridge shall be established for the detection of cases of overloading of animals, and may also declare, by notification, the limits of the areas for which such weighbridge are established.

(2) The Local Government may erect weighbridge at the places so appointed, and may acquire, by purchase or otherwise, existing weighbridges erected by any person and maintain them for the purposes of subsection(1).

Infirmaries.

14. The Local Government may, by general or special order appoint place to be infirmaries for the treatment and care of animals in respect of which offences against this Act are believed to have been committed.

15. The Local Government may appoint such persons as they think fit, --

Power of Local Govt. (a) to be Veterinary Inspectors for carrying into effect the provisions of this to appoint Vety. Act, and may declare the areas within which such officers shall exercise their Inspectors and powers under this Act. and the areas of which they shall be in charge; weighbridges (b) to be weighbridge-officers, to have charge of any weighbridge or officers. weighbridges established under section 13.

16. Within the limits of any area for which I weighbridge has been established under section 13, any police-officer, or any other person duly authorised by the Local Government in this behalf, who has reason to believe that an offence against section 5 is being committed in respect of any animal, shall seize and take it, together with its load and the person in charge of the animal, to such weighbridge, and shall cause the load to be weighed on the weighbridge in the presence of such person.

Excess load to be removed in cases of 17(1). If the weighbridge-officer is not satisfied that an offence against section 5 has been committed, he shall inform the police officer or person who seized overloading. the animal accordingly, and that officer or person shall forthwith release the animal and load.

(2) If the weighbridge-officer is satisfied that an offence against section 5 has been committed, he shall cause the excess load to be removed.

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(1) If the owner of that animal, and

(2) if any person who, as a trader, carrier or contractor in virtue of this employment by a trader, carrier or contractor, is in possession of that animal or in control over the loading of it,

permits such overloading, he shall be punished with fine which may extend to one hundred rupees.

Explanation. -- For the purpose of this section an owner or other person referred to in clauses(1) and (2) above shall be deemed to have permitted overloading if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom.

6. If any person performs upon any cow or other milch animal the operation called phuke he shall be punished with a fine which may extend to four hundred rupees, or with imprisonment for a term which may extend to two years, or with both, and the owner of the cow or other milch animal & any person in possession of or control over it shall be liable to the same punishment;

7. If any person kills any in an unnecessarily cruel manner he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both;

Provided that nothing in this section shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class, or for any bona fide scientific purpose or for the preparation of any medical drug.

8. 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 so as to constitute an offence under section 7, 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.

The Bengal Cruelty to Animals Act, 1920.

(Offences-Sections 9-10).

Presumptions as to possession of the skin of a Goat. 9. (1) If any person is charged with the offence of killing a goat contrary to the provisions of section 7, and it is proved that such person had in his possession, after 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.

(2) If any person is charged with an offence against section 8, and it is proved that such person had in his possession, at the time of the alleged offence, 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.

Penalty for employing animals unfit for labour. 10. If any person employs in any work or labour any animal which by reason of any disease infirmity wound, sore or other cause is unfit to be so employed, he shall be punished with fine which may extend to one hundred rupees, and

(1) if the owner of that animal, and

(2) if any person who, as a trader, carrier or contractor, or who, in virtue of his employment by a trader, carrier or contractor is in possession of that animal of that animal or in control over the employment of it,

permits such employment, he shall be liable to the same punishment.

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BENGAL ACT 1 of 1938.
THE BENGAL CRUELTY TO ANIMALS (AMENDMENT) ACT, 1938.
(Passed by the Bengal Legislature)
(Assent of the Governor was first published in the Calcutta
Gazette of the 28th April, 1938)

An Act further to amend the Bengal Cruelty to Animals Act 19.

Ben. Act 1 WHEREAS it is expedient further to amend the Bengal Cruelty to Animals Act, 1920 for
of 1920. the purpose of dealing more affectively with the operation called phuka;

It is hereby enacted as follows:-

1. This Act maybe called the Bengal Cruelty to Animals (Amendment) Act, 1938.
2. (1) In section 6 of the Bengal Cruelty to animals Act, 1920 (herein after referred to as the said Act)--
(a) after the word "he" the words shall be deemed to have committed a cognizable offence and" shall be inserted;
(b) (1) for the word "two" the word "five", and
(11) for the words "six months" the words "two years" shall be substituted;
and
(111) at the end the following words shall be added, namely- "and the cow or the milch animal on which the operation of phuka was performed shall be forfeited to Government".

(2) To that section - amended the following proviso shall be added, namely—
"Provided that in the case of a second or subsequent conviction of a person under this section, such person shall be punished both with fine which may extend to five hundred rupees and with imprisonment which may extend to two years".

- Insertion of new sections 6A and 6B,
Disposal for granting licenses for cattle sheds.
3. After section 6 of the said Act the following sections shall be inserted, namely :-
6B. Shall be lawful for the for the Corporation of Calcutta or the Commissioners of a Municipality in towns or places where this Act applies to refuse to grant or renew licenses for cattle sheds in buildings with boundary insist upon the licenses to keep the cattle sheds open on all sides to facilitate the detection of any offence against section 6".