

ANIMALS AND BIRDS ACT**Principal Act****Act. No. 1948-30***Commencement*

1.1.1949

Assent

24.8.1948

Amending enactments	Relevant current provisions	Commencement date
Acts. 1960-21	ss. 5-6, 9, 17	
1968-17	ss. 2(1), 8, 17(1)	
Reg. of 28.5.1970	ss. 2(1), 4, 7, 24(4)-(5)	
Acts. 1974-16	s. 2(2)	
1975-32	ss. 2(1), 10, 21, 26	
1983-48	s. 12	
1987-34	ss. 4, 7, 10, 24	1.2.1988
1987-33	ss. 2(1), 10(1A)-(1B), (2), (9), 14(2), 15, 18(3), 20-24, 25(2)-(3), 25A	1.3.1988

English sources:

Protection of Birds Act 1954 (2 and 3 Eliz. 2 c.30)

Protection of Animals (Amendment) Act 1954 (2 and 3 Ell. 2 c.40)

Abandonment of Animals Act 1960 (8 and 9 Eliz. 2 c.43)

EU Legislation/International Agreements involved:

Directive 92/65/EC

Regulation (EC) No 998/2003

Regulation (EC) No 592/2004

ARRANGEMENT OF SECTIONS.

Section

PART I.
INTRODUCTORY.

1. Short title.
2. Interpretation.

PART II.
DISEASES OF ANIMALS AND BIRDS.

3. Importing or keeping diseased animals or birds.
4. Failure to notify diseases.

PART III.
PROTECTION OF ANIMALS AND BIRDS.

5. Cruelty to animals or birds.
6. Abandoning animals.
7. Export of horses.
8. Protection of wild birds.
9. Protection of captive birds.
10. Registration, licensing and vaccination of dogs.
11. Injuries by animals or birds to persons or property.
12. *Repealed.*

PART IV.
LEGAL PROCEEDINGS.

13. Proceedings to be summary.
14. Dangerous animals or birds.
15. Damage to animals or birds.
16. Destruction and deprivation of ownership.
17. Power to disqualify persons convicted of cruelty to animals.
18. Production of drivers, etc., and animals.
19. Burden of proof.

PART V.
PENALTIES.

20. Penalty for an offence against this Act.
21. Penalties for breach of rules.

PART VI.
MISCELLANEOUS PROVISIONS.

- 22. Power and duties of authorised officers and others.
- 23. Failure to produce licence.
- 24. Seizure of stray animals and birds.
- 25. Finding by persons other than authorised officers.
- 25A. Obstructing Officers in execution of duties under Act.
- 26. Rules.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO
ANIMALS AND BIRDS.

PART I.
INTRODUCTORY.

Short title.

1. This Act may be cited as the Animals and Birds Act.

Interpretation.

- 2.(1) In this Act, unless the context otherwise requires or it is otherwise expressly provided,—

“animal” means any domestic or captive animal;

"authorized officer" includes any police officer, customs officer, environmental health officer or other inspector employed by the Government for the purpose of this Act, and an inspector of the Royal Society for the Prevention of Cruelty to Animals;

“bird” means any domestic or captive bird;

“captive animal” means any animal (not being a domestic animal) of whatsoever kind or species, and whether a quadruped or not, including any bird, fish or reptile, which is in captivity or confinement, or which is maimed, pinioned or subject to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement;

“cattle” includes oxen, horses, mules, asses, sheep, goats and swine;

“domestic animal” means any horse, ass, mule, ox, sheep, pig, goat, dog, cat or fowl, or any other animal of whatsoever kind or species, and whether a quadruped or not, which is tame or which has been or is being sufficiently tamed to serve some purpose for the use of man;

“fowl” includes any chicken, turkey, goose, duck, guinea-fowl, peafowl, swan or pigeon;

“Government veterinary surgeon” means any duly qualified veterinary surgeon appointed by the Governor to be a Government veterinary surgeon for the purpose of this Act or, in the absence of such appointment, such other officer or person as the Governor may direct;

“poultry” includes turkeys, geese, guinea-fowls and pigeons;

“vaccinated” means vaccinated with an inactivated rabies vaccine approved by the Ministry of Agriculture, Fisheries and Food in the United Kingdom.

(2) Notwithstanding anything contained in subsection (1) where any rules are made under the provisions of section 26 the Governor may, if he considers it necessary so to do in order to comply with any convention or treaty which has been extended to Gibraltar, for the purpose of such rules attribute to any expression used in those rules a different meaning from that attributed to such expression in subsection (1).

PART II.

DISEASES OF ANIMALS OR BIRDS.

Importing or keeping diseased animals or birds.

3. A person who imports any animal or bird which to his knowledge is suffering from any contagious or infectious disease is guilty of an offence against this Act.

Failure to notify diseases.

4. A person who, having the custody of any animal or bird which to his knowledge is suffering from any contagious or infectious disease and fails to notify the fact forthwith to the Government veterinary surgeon or to the Chief Environmental Health Officer is guilty of an offence against this Act.

PART III.

PROTECTION OF ANIMALS OR BIRDS.

Cruelty to animals or birds.

5. A person who—

- (a) cruelly beats, kicks, ill-treats, over-rides, over-drives, overloads, tortures, infuriates or terrifies any animal or bird, or causes or procures or, being the owner, permits any animal or bird to be so used, or by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, causes any unnecessary suffering or, being the owner, permits any unnecessary suffering to be so caused to any animal or bird; or
- (b) conveys or carries, or causes or procures or, being the owner, permits to be conveyed or carried, any animal or bird in such

manner or position as to cause or be likely to cause that animal or bird any unnecessary suffering; or

- (c) causes, procures or assists at the fighting or baiting of any animal or bird, or keeps, uses or manages, or acts or assists in the management of, any premises or place for the purpose, or partly for the purpose, of fighting or baiting any animal or bird, or permits any premises or place to be so kept, used or managed, or receives or causes or procures any person to receive, money for the admission of any person to such premises or place; or
- (d) wilfully, without any reasonable cause or excuse, administers, or causes or procures, or, being the owner, permits such administration of, any poisonous or injurious drug or substance to any animal or bird, or wilfully, without any reasonable cause or excuse, causes any such substance to be taken by any animal or bird; or
- (e) subjects, or causes or procures, or being the owner permits, to be subjected, any animal or bird to any operation which is performed without due care and humanity; or
- (f) buys, offers to buy, imports, sells, exposes for sale or exhibits any blind animal or bird; or
- (g) has in his possession or control any animal or bird which is so severely injured or is in such a physical condition that it is cruel to keep it alive; or
- (h) uses as a decoy any live animal or bird which is tethered or is secured by means of braces or other similar appliances or which is blind, maimed or injured, or uses bird-lime or any substance of a like nature for the purpose of taking or capturing alive any animal or bird,

shall be deemed to have committed cruelty in respect of such animal or bird and is guilty of an offence against this Act.

Abandoning animals.

- (1960 c.43, s.1). 6. A person who being the owner or having charge or control of any animal, without reasonable cause or excuse abandons it, whether permanently or not, in circumstances likely to cause the animal any unnecessary suffering or causes or procures or being the owner, permits it to be so abandoned, is guilty of an offence against this Act.

Export of horses.

7.(1) A person who exports any horse from Gibraltar without the prescribed certificate from the Government veterinary surgeon is guilty of an offence against this Act:

Provided that a horse in respect of which a permit under subsection (2) has been issued may be taken out of Gibraltar for any lawful or temporary purpose approved by the Chief Environmental Health Officer.

(2) A person who keeps a horse in Gibraltar for a longer period than twenty-four hours without a permit from the Chief Environmental Health Officer is guilty of an offence against this Act.

Protection of wild birds.

8. (1) A person who, without the written authority of the Governor given for any scientific or other purpose which the Governor may deem proper-

- (a) takes, removes, injures, destroys or has in his possession any nest or egg, taken in Gibraltar, of any wild bird; or
- (b) wilfully kills, wounds or takes or attempts to kill, wound or take any wild bird; or
- (c) has in his possession any wild bird killed or taken in Gibraltar or any part thereof; or
- (d) uses or has in his possession any spring trap, net or similar appliance for the purpose of taking or capturing wild birds;

is guilty of an offence and is liable to a fine off£ 10:

Provided that paragraphs (b) and (c) shall apply only at such times and to such birds as the Governor may from time to time prescribe.

(2) Any spring trap, net or similar appliance and any nest, egg, or any bird, living or dead, or any part thereof in respect of which any person is convicted under this section shall be forfeited to Her Majesty and any living bird so forfeited shall be released.

Protection of captive birds.

9. A person who keeps or confines any bird whatsoever in any cage or other receptacle which is not sufficient in height, length and breadth to permit the bird to stretch its wings freely, is guilty of an offence against this Act:

Provided that this section shall not apply to poultry or to the keeping or confining of any bird-

- (a) while that bird is in the course of conveyance, whether by land, air or water; or
- (b) while that bird is being shown for the purpose of any public exhibition or competition if the time during which the bird is kept or confined does not in the aggregate exceed seventy two hours; or
- (c) while that bird is undergoing treatment by a veterinary surgeon or veterinary practitioner.

Registration, licensing and vaccination of dogs.

10. (1) No person shall keep a dog over the age of three months unless—

- (a) the dog has been registered under the provisions of this Act;
- (b) he holds a valid and subsisting licence authorising him to keep the dog; and
- (c) the dog has been vaccinated within the previous twelve months.

(1A) No licence under this section shall be issued to a person under 16 years of age.

(1B) The person to whom a licence is issued under this section shall, for all purposes of this Act, be deemed to be the owner of the dog to which the licence relates.

(2) A person who keeps a dog in contravention of the provisions of subsection (1)(a) or (b) is guilty of an offence and is liable on summary conviction to a fine of £100. A person who keeps a dog in contravention of the provisions of subsection (1)(c) is guilty of an offence and is liable on summary conviction to a fine of £200.

(3) The Chief Environmental Health Officer may cause any dog over the age of three months which has not been vaccinated within the previous twelve months to be vaccinated.

(4) The Governor may appoint a licensing officer for the purposes of this Act.

(5) The registration and licensing of dogs shall be conducted by the licensing officer.

(6) No dog shall be registered or licensed under the provisions of this Act unless it has been vaccinated within the previous twelve months and unless at the time of registration or licensing there is produced to the licensing officer a certificate to that effect in such form as may satisfy him.

(7) Any person may at any reasonable time inspect any register kept for the purposes of this Act upon payment of such fee as may be prescribed.

(8) A copy of any entry in such register purporting to be certified as a true copy by the licensing officer shall in all legal proceedings be evidence of the matters stated therein without proof of the signature or authority of the person signing it; and any person may, on payment of such fee as may be prescribed, require to be furnished with such copy.

(9) A person who counterfeits any registration badge or licence disc, or who keeps a dog which is found to be wearing any false or counterfeit registration badge or licence disc or a registration badge or licence disc issued in respect of any other dog is guilty of an offence and is liable on summary conviction to a fine of £200 and to imprisonment for six months.

Injuries by animals or birds to persons or property.

11. The person by whom an animal or bird is kept is liable in damages for injury done to any person or property of any kind by that animal or bird and it shall not be necessary for the person seeking such damages to show a previous mischievous propensity in such animal or bird or the keeper's knowledge of such previous propensity or to show that the injury was attributable to neglect on the part of the keeper.

12. *Repealed.*

PART IV. LEGAL PROCEEDINGS.

Proceedings to be summary.

13. All legal proceedings under this Act shall be taken in the magistrates' court, from which an appeal shall lie to the Supreme Court under the provisions of the Magistrates' Court Act¹, and the court may direct in such case that any recognizance required to be entered into, shall include an undertaking not to sell or part with any animal or bird concerned until the

¹ 1961-23

appeal is determined or abandoned and to produce it, if possible, if the court so directs at the hearing of the appeal.

Dangerous animals or birds.

14. (1) The magistrates' court may likewise take cognizance of a complaint that an animal or bird is dangerous and not kept under proper control and if the court is satisfied of the truth of the complaint it may order the animal or bird to be kept under proper control or destroyed.

(2) A person who fails to comply with such order is guilty of an offence and is liable to a fine of £10 for every day during which he fails to comply with such order.

Damage to animals or birds.

15. A person who, by cruelty within the meaning of this Act to any animal or bird, does or causes to be done, any damage or injury to the animal or bird or any person or property, and who is convicted for the cruelty under this Act, is liable upon the application of the person aggrieved to be ordered to pay as compensation to the person who sustained such damage or injury, such sum not exceeding £200, as the court before which he is convicted may consider reasonable:

Provided that this section shall not—

- (a) prevent the taking of any other legal proceedings in respect of any such damage or injury, so that a person may not be twice proceeded against in respect of the same claim; or
- (b) affect the liability of any person to be proceeded against and punished under this Act for an offence of cruelty within the meaning of this Act.

Destruction and deprivation of ownership.

16. (1) Where the owner of an animal or bird is convicted of an offence of cruelty within the meaning of this Act, it shall be lawful for the court, if it is satisfied that it would be cruel to keep the animal or bird alive, to direct that the animal or bird be destroyed and to assign the animal or bird to any suitable person for that purpose; and the person to whom such animal or bird is so assigned shall, as soon as possible, destroy such animal or bird, or cause or procure such animal or bird to be destroyed in his presence without unnecessary suffering. Any reasonable expenses incurred in destroying the animal or bird may be ordered by the court to be paid by the owner, and thereupon shall be recoverable summarily as a civil debt:

Provided that, unless the owner assents, no order shall be made under this section except upon the evidence of a duly qualified veterinary surgeon, or of a person habitually employed upon veterinary work.

(2) If the owner of any animal or bird is guilty of cruelty within the meaning of this Act to the animal or bird, the court, upon his conviction thereof, may in addition to any other punishment, deprive such person of the ownership of the animal or bird, and may make such order as to the disposal of the animal or bird as it thinks fit in the circumstances:

Provided that no order shall be made under this section, unless it is shown by evidence as to a previous conviction, or as to the character of the owner, or otherwise, that the animal or bird, if left with the owner, is likely to be exposed to further cruelty.

Power to disqualify persons convicted of cruelty to animals.

17. (1) Where a person who has been convicted of an offence under section 5, 6 or 9 is subsequently convicted of such an offence, the court by which he is convicted on the subsequent occasion may, if it thinks fit, in addition to or in substitution for any other punishment, order him to be disqualified, for such period as it thinks fit, from having custody or control of any animal or bird or any animal or bird of a kind specified in the order. *(1954 c.40, s.1).*

(2) The court which has ordered the disqualification of a person in pursuance of this section may, if it thinks fit, suspend the operation of the order for such period as it thinks necessary for enabling arrangements to be made for the custody of any animal or bird to which the disqualification relates or pending an appeal.

(3) A person who is disqualified by virtue of an order under this section may, at any time after the expiration of twelve months from the date of the order, and from time to time, apply to the court by which the order was made to remove the disqualification, and on any such application the court may, as it thinks proper, having regard to the character of the applicant and his conduct subsequent to the order, the nature of the offence of which he was convicted and any other circumstances of the case, either—

- (a) direct that, as from such date as may be specified in the direction, the disqualification be removed or the order be so varied as to apply only to animals of a kind specified in the direction; or
- (b) refuse the application:

Provided that where on an application under this section the court directs the variation of the order or refuses the application, a further application

shall not be entertained if made within twelve months after the date of the direction or, as the case may be, the refusal.

Production of drivers, etc., and animals.

18. (1) Where proceedings are instituted under this Act against the driver or conductor of any vehicle, it shall be lawful for the court to issue a summons directed to the employer of the driver or conductor as the case may be, requiring him, if it is in his power so to do, to produce the driver or conductor at the hearing of the case, or the vehicle, if necessary, for the inspection of the court.

(2) Where proceedings are instituted under this Act, it shall be lawful for the court to issue a summons directed to the owner or person having the custody of the animal or bird requiring him to produce either at, or at any time before, the hearing of the case, as may be stated in the summons, the animal or bird for the inspection of the court, if such production is possible without cruelty.

(3) Where a summons is issued under subsection (1) or (2), and the employer, owner or person having the custody or control of the animal or bird or any other thing required for the trial of any proceedings, fails to comply therewith without satisfactory excuse, he is guilty of an offence and is liable to a fine of £100 for the first occasion, and of £200 for the second or any subsequent occasion on which he so fails, and may be required to pay the costs of any adjournment rendered necessary by his failure.

Burden of proof.

19. (1) In any proceedings under this Act the burden of proof shall be upon the owner or person having the custody of any animal or bird in the following cases:—

- (a) in any question as to the age of any dog;
- (b) in any question as to whether an animal or bird is diseased or otherwise;
- (c) in any question as to the unlawful possession of any bird or any part thereof, or of any egg or nest of any bird.

(2) The occupier of any house or premises where any animal or bird is kept or permitted to remain shall be presumed to be the owner or person having the custody of such animal or bird.

**PART V.
PENALTIES.**

Penalty for an offence against this Act.

20. A person who commits any offence against this Act for which no penalty is provided is liable to imprisonment for six months and to a fine of £200.

Penalties for breach of rules.

21. Rules made under the provisions of this Act may provide that any person who imports any animal into Gibraltar in breach of the rules shall be liable on summary conviction to a fine of £400 and to imprisonment for six months

PART VI. **MISCELLANEOUS PROVISIONS.**

Power and duties of authorised officers and others.

22. (1) An authorised officer may arrest without warrant any person whom he reasonably suspects of having committed an offence against this Act and who is not ordinarily resident in Gibraltar. Every such person arrested shall be brought before a justice with the least possible delay.

(2) Any authorised officer may likewise stop, examine or detain any animal, bird, vehicle, vessel or other thing in respect of which he reasonably suspects that an offence against this Act has been committed and for such purpose may board any vessel or enter any vehicle or enter any premises at any reasonable time.

(3) If any animal or bird (whether an offence is reasonably suspected of having been committed in respect of it or not) found by any authorised officer is reasonably believed by him to be diseased or seriously injured he may likewise detain such animal or bird.

(4) Every vehicle, vessel, animal or bird so detained shall (if it is fit to be moved) be placed in safe control, and if any animals or bird o detained is believed by the authorised officer to be diseased or injured he shall forthwith make a report to the Government veterinary surgeon.

(5) Any expense reasonably incurred in connection with the detention, examination or treatment of any animal or bird under this section (including any fee paid to the Government veterinary surgeon) may be recovered from the owner of the animal or bird summarily as a civil debt.

(6) If the Government veterinary surgeon certifies that any such animal or bird is mortally injured, or so severely injured, or so diseased, or in such physical condition, that it is cruel to keep it alive, it shall be lawful for the

Government veterinary surgeon to order that the animal or bird be slaughtered and the body disposed of, without the consent of the owner, in such manner as the Government veterinary surgeon shall direct.

Failure to produce licence.

23. A person who fails within a reasonable time to produce to any authorised officer for examination by him any licence, permit or other document prescribed by this Act, when requested to do so by such authorised officer, is guilty of an offence and is liable to imprisonment for one month or to a fine of £100.

Seizure of stray animals or birds.

24. (1) Where an authorised officer has reason to believe that any animal or bird found in a public place is a stray animal or bird, he may seize the animal or bird and may impound it until the person by whom it is owned or who has the custody of it has claimed it and paid all prescribed fees and expenses incurred by reason of such detention.

(2) When any animal or bird has been so seized the Chief Environmental Health Officer shall, if the name and address of its owner or person having the custody of it is known or can be ascertained, cause to be served on such owner or other person, as the case may be, a notice in writing stating that the animal or bird has been so seized and will be liable to be sold or destroyed if not claimed within four working days after service of the notice.

(3) A notice under this section may be served by delivering it to the person to be served or by leaving it or posting it to him, at the address which is known or has been ascertained to be his address.

(4) When any animal or bird so seized has been detained for four working days after the seizure, or, in the case of such a notice as aforesaid having been served, then for four working days after service of the notice, and the owner or person having the custody of the animal or bird has not claimed it and paid all expenses and prescribed fees incurred by reason of its being impounded, the Chief Environmental Health Officer may cause the animal or bird to be sold or to be destroyed in such manner as to cause as little pain as possible.

(5) Any reasonable expenses involved in the destruction of the animal or bird and in the disposal of its carcass may be recovered from the owner or person having the custody of the animal or bird by the Chief Environmental Health Officer as a civil debt.

(6) For the purposes of this Act, a dog that is not held by a person by means of an effective lead, whilst in or on any public place, shall be treated as a stray animal.

Finding by persons other than authorised officers.

25. (1) Any person other than an authorised officer who finds any animal or bird apparently astray in any public place or on any Government or private property shall forthwith either—

- (a) return the animal or bird to its keeper; or
- (b) take the animal or bird to a police station or deliver it to an authorised officer,

and where an animal or bird has been so taken to a police station the authorised officer shall treat it as if it had been seized by him in pursuance of section 24.

(2) A person who has taken possession of a stray animal or bird and who fails to comply with the provisions of this section is guilty of an offence and is liable on conviction to a fine of £50.

- (3) A person who—
 - (a) drives, leads, or entices any animal or bird into any public place or Government or other property, with intent to have such animal or bird illegally impounded; or
 - (b) without authority releases or attempts to release any animal or bird impounded,

is guilty of an offence and is liable on conviction to a fine of £200.

Obstructing officers in execution of duties under Act.

25A. A person who wilfully obstructs an authorised officer acting in the execution of his duty under this Act is guilty of an offence and is liable on summary conviction to imprisonment for 3 months and to a fine of £200.

Rules.

26. The Governor may make rules—

- (a) prescribing anything which under this Act is required to be prescribed;

- (b) prohibiting or controlling the import and export of animals and birds, or any specified kind thereof and for the control, seizure, detention, disposal and slaughter of any animals or birds within Gibraltar;
- (bb) prescribing the removal from Gibraltar of any animal or bird which has been illegally imported;
- (c) prescribing and regulating the burial, disposal or treatment of carcasses of animals or birds slaughtered under the provisions of any rules made under this Act, or dying while suspected of any disease;
- (d) prohibiting or regulating the sending, carrying or disposal of dung or other thing likely to spread disease;
- (e) prescribing or regulating the disinfection of any place occupied or filled by an animal or bird detained, impounded or slaughtered, on account of, or suspected of, any disease;
- (f) prescribing and regulating the payment and recovery of expenses in respect of animals or birds;
- (g) defining the duties of the licensing authority in relation to the registration of dogs and the issue of licences under this Act and any matters connected therewith;
- (h) providing for the issue of registration badges and licence discs and prescribing the requirements to be fulfilled by keepers of dogs in relation thereto;
- (i) prescribing the particulars to be furnished in relation to dogs upon an application for registration or a licence or otherwise;
- (j) exempting any specified description of dogs from the application of any provision of this Act relating to registration or licensing;
- (k) prescribing the form of any register, licence, permit, or other document for the purposes of this Act and the fees to be paid in respect of registration or licensing or any matter connected therewith;
- (l) generally for carrying the provisions of this Act into effect.