

ANIMALS 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
1991-11	ss. 8-9	9.5.1991
2004-27	ss. 2(1)-(2), 4, 7(1)-(2), 10(1)(a), (1C), (3)-(4), 21, 22(1A)-(1B), (4)-(6), 23, 24(2), (4)-(5), 26, (kk)	17.8.2004
2006-10	ss. 10(2), (9), 14(2), 15, 18(3), 20, 23, 25(3), 25A	20.4.2006
2014-03	ss. 2, 6A-6B, 27, Sch.	27.2.2014
2016-02	ss. 10(3), (3A), (4)-(6), (6A)-(6C), (7)-(8), 10A	28.1.2016
2016-19	ss. 2(1), 10(2), (6)(c)-(d), 10(7A)-(7C), 26(ja), (k)- Sch.	2.12.2016 ¹
2018-21	ss. 1-6, 6A(1)(c), 7(1), 10(4), (6), (d), (6C), (7B)-(7C), (10), 11, 12A-12B, 13, 14(1), 15, 16(1)-(2), 17(1)-(2), 18(2)-(3), 19(1), (b), (2), 21A-21C, 22(1), (3)-(6), 24(1)-(2), (4)-(6), 25-26, (b), (bb), (c), (e)-(f), Sch.	15.11.2018

¹ Notice of Commencement (LN. 2016/243)

Transitional provisions - In respect of a dog registered prior to the coming into force of this Act, section 2(4) and (5) of this Act shall apply upon the renewal of the licence under rule 16 of the Animals Rules 2004.

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.

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

PART III.
PROTECTION OF ANIMALS.

5. Cruelty to animals.
6. Abandoning animals.
- 6A. Enticing or feeding Barbary Macaques.
- 6B. Possibility of fixed penalty notices for enticing or feeding Barbary Macaques.
7. Export of horses.
8. *Repealed.*
9. *Repealed.*
10. Registration, licensing and vaccination of dogs.
- 10A. Microchips.
11. Injuries by animals to persons or property.
12. *Repealed.*
- 12A. Protection of cetacean.
- 12B. Exceptions from section 12A.

PART IV.
LEGAL PROCEEDINGS.

13. Proceedings to be summary.
14. Dangerous animals.
15. Damage to animals.
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 VA
ANIMALS IN DISTRESS

- 21A. Powers in relation to animals in distress.
- 21B. Power of entry for section 21A purposes.
- 21C. Orders in relation to animals taken under section 21A(5).

PART VI.
MISCELLANEOUS PROVISIONS.

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

SCHEDULE
AUTHORISED OFFICERS

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

PART I.
INTRODUCTORY.

Short title.

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

Interpretation.

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

“animal” means any domestic or captive member of the animal kingdom;

“authorised officer” means any person listed in the Schedule to this Act;

“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;

“cetacea” means the order of marine mammals comprising whales, dolphins and porpoises and “cetacean” shall refer to an animal in that order;

“child” means a person aged 16 or under;

“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 and shall include such feral populations of species that are ordinarily domesticated as may be specified by the Minister after consultation with the Nature Conservancy Council;

“the EC Regulation” means Regulation (EC) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) 998/2003 as amended from time to time;

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

“Gibraltar Nature Reserve” means the area designated in the Nature Conservation (Designation of Gibraltar Nature Reserve) Order 2016;

“Government Veterinary Practitioner” means a qualified veterinary practitioner appointed for the purposes of this Act by the Minister for the Environment;

“Licensing Officer” means the person appointed by the Minister for the Environment under section 10(4);

“Minister” means the minister with responsibility for the environment;

“Nature Conservancy Council” has the meaning given to it under section 2(1) of the Nature Protection Act 1991;

“owner” means a person responsible for or in charge of such an animal whether on a permanent or temporary basis, and who provides the animal with, inter alia, a suitable diet, suitable accommodation and protection. For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it. Where a child is responsible for an animal, the parent or guardian of the child shall be treated as the owner of that animal;

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

“vaccinated” means vaccinated with an inactivated rabies vaccine of at least one antigenic unit per dose (WHO standard) in accordance with the recommendations of the manufacturing laboratory;

“wild animal” means any wild or feral member of the animal kingdom, not being a domestic or captive animal;

(2) Notwithstanding anything contained in subsection (1) where any rules are made under the provisions of section 26 the Minister for the Environment 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.

Importing or keeping diseased animals.

3. A person who imports any animal which he knows is likely to be suffering from any contagious or infectious disease that is a serious threat to animal or public health itself or if it spreads is guilty of an offence against this Act.

Failure to notify diseases.

4. A person who, having the custody of any animal which to his knowledge is likely to be suffering from any contagious or infectious disease and fails to notify the fact forthwith to the Government Veterinary Practitioner or to the Environmental Agency is guilty of an offence against this Act.

PART III.
PROTECTION OF ANIMALS.

Cruelty to animals.

5.(1) A person who—

- (a) cruelly beats, kicks, ill-treats, over-rides, over-drives, overloads, tortures, infuriates or terrifies any animal, or causes or procures or, being the owner, permits any animal 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
- (b) conveys or carries, or causes or procures or, being the owner, permits to be conveyed or carried, any animal in such manner or position as to cause or be likely to cause that animal any unnecessary suffering; or
- (c) causes, procures or assists at the fighting or baiting of any animal, 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 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 wilfully, without any reasonable cause or excuse, causes any such substance to be taken by any animal; or

- (e) subjects, or causes or procures, or being the owner permits, to be subjected, any animal 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
- (g) has in his possession or control any animal 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 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,

shall be guilty of an offence of cruelty within the meaning of this Act.

- (2) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction to imprisonment for a term not exceeding twelve months or the statutory maximum fine, or both;
 - (b) on conviction on indictment to imprisonment for five years.

(3) For the purposes of this section, an owner shall be deemed to have permitted cruelty within the meaning of this Act if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom:

Provided that, where an owner is convicted of permitting cruelty within the meaning of this Act by reason only of his having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

- (4) The provisions of this section shall also apply to wild animals.

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, or causes or procures or being the owner, permits it to be so abandoned, is guilty of an offence against this Act.

Enticing or feeding Barbary Macaques.

6A.(1) It is an offence for a person—

- (a) to entice a Barbary Macaque to leave any part of the Gibraltar Nature Reserve by offering or leaving food or water;
- (b) not being a person authorised by the Minister, to feed a Barbary Macaque within the Gibraltar Nature Reserve, or to encourage another person to do so; or
- (c) not being a person authorised by the Minister, to feed a Barbary Macaque outside the Gibraltar Nature Reserve, or to encourage another person to do so.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine at level 4 on the standard scale.

Possibility of fixed penalty notices for enticing or feeding Barbary Macaques.

6B.(1) Where on any occasion an authorised officer finds a person whom he has reason to believe on that occasion is committing or has committed an offence under section 6A(1) he may give that person the prescribed notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person has been given a notice under this section in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the service of that notice; and
- (b) he shall not be proceeded further against for that offence if he pays the fixed penalty before the expiration of that period.

(3) In subsections (1) and (2)—

“proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subsection (1), and

“conviction” shall be construed in like manner.

(4) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

- (a) a reference to the section of the Act, or, as the case may be, the regulation creating the offence;
- (b) the period during which, by virtue of sub-section (2), proceedings are not to be taken for the offence;
- (c) the amount of the fixed penalty; and
- (d) the address of the Clerk of the Magistrates' Court to whom the fixed penalty shall be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(5) The form of notices under this section shall be such as the Government may by regulation prescribe.

(6) The fixed penalty payable in pursuance of a notice under this section is £500 for an offence under section 6A(1)(a) or 6A(1)(c) and £250 for an offence under section 6A(1)(b), and, with respect to the sums received by the Clerk of the Magistrates' Court, those sums shall be paid to any authority specified for this purpose by notice in the Gazette.

(7) In any proceedings, a certificate which—

- (a) purports to be signed by or on behalf of the Clerk of the Magistrates' Court; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.

Export of horses.

7.(1) A person who exports any horse from Gibraltar without the prescribed certificate from the Government Veterinary Practitioner 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 Environmental Agency.

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

8. Repealed

9. Repealed

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 to him 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.

(1C) For the purpose of this section “keep” means to own or otherwise have in one’s possession for a period of more than three months.

(2) A person who keeps a dog in contravention of the provisions of subsection (1) is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(3) The Environmental Agency may, irrespective of the wishes of a person to whom a license is issued under this section, cause any dog over the age of three months which has not been vaccinated within the previous twelve months to be vaccinated.

(3A) In exercising its powers under subsection (3) an authorised officer or Licensing Officer may use such measures as are reasonable and proportionate under the circumstances to cause a dog to be vaccinated.

(4) The Minister may appoint one or more Licensing Officers for the purposes of this Act.

(5) The registration and licensing of dogs shall be conducted by a Licensing Officer.

(6) No dog shall be registered or licensed under the provisions of this Act, unless—

- (a) it has been vaccinated within the previous twelve months;
- (b) 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; and
- (c) it has been implanted with a microchip; and
- (d) it has had a blood or saliva sample taken by a competent person authorised by the Minister for the purposes of this section.

(6A) For the purposes of subsection (6)(c) a dog shall be considered to be implanted with a microchip if the following conditions are met—

- (a) a microchip has been implanted in the dog before the coming into operation of this subsection; or
- (b) a microchip is implanted in the dog in accordance with section 10A.

(6B) Subsection (6)(c) does not apply if the keeper of a dog produces to a Licensing Officer a document certified in writing and signed by a veterinary surgeon to the effect that implanting (or the continued implantation) of a microchip would have an adverse effect on the health of the dog.

(6C) Subject to subsection (6B), a dog to which this section applies must be implanted with a microchip for its registration and license to remain valid.

(7A) For the purposes of subsection (6)(d), a competent person means—

- (a) a veterinary surgeon;
- (b) a veterinary nurse acting under the direction of a veterinary surgeon; or
- (c) a person who has received instruction on how to take a blood sample from a veterinary surgeon and is acting under the direction of a veterinary surgeon.

(7B) The dog's DNA profile shall be derived from the blood sample or, exceptionally, at the discretion of the competent person taking the sample, from the saliva sample taken for the purposes of subsection (6)(d) and shall be entered in the dog register.

(7C) For the purposes of this section “DNA profile” means the genetic information derived from a blood or saliva sample.

(7) *Deleted*

(8) A copy of any entry in such register purporting to be certified as a true copy by a 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.

(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 at level two on the standard scale and to imprisonment for six months.

(10) The Minister may by regulations provide for the provisions of this section to extend to cats.

Microchips.

10A.(1) A microchip implanted in a dog must—

- (a) generate a unique number when read by a scanning device;
- (b) be implanted by a competent person (if implanted in Gibraltar);
- (c) comply with either ISO standard 11784:1996 or Annex A to ISO standard 11785:1996 of the International Standards Organisation’s standards for microchips; and
- (d) be registered in the dog register.

(2) The dog register shall record the unique number generated by the microchip.

(3) For the purpose of this section a competent person means a veterinary surgeon, a veterinary nurse acting under the direction of a veterinary surgeon, or a person who has received instruction on how to implant a microchip from a veterinary surgeon and is acting under the direction of a veterinary surgeon.

(4) An authorised officer or a Licensing Officer may, for the purpose of executing his duty under this Act, require the scanning of a microchip implanted in a dog.

Injuries by animals to persons or property.

11. The person by whom an animal is kept is liable in damages for injury done to any person or property of any kind by that animal and it shall not be necessary for the person seeking such damages to show a previous mischievous propensity in such animal 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.***Protection of cetacea.**

12A.(1). It is an offence—

- (a) deliberately to capture injure or kill any cetacean;
- (b) deliberately to disturb any cetacean—
 - (i) if the disturbance is such as is likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young, or migrate; or
 - (ii) if the disturbance significantly affects the local distribution or abundance of the species to which it belongs.

(2) It is an offence for any person—

- (a) to have in his possession or control;
- (b) to transport;
- (c) to sell or exchange; or
- (d) to offer for sale or exchange,

any live or dead cetacean, or part thereof, or anything derived from a cetacean or part thereof.

(3) The offences in subsections (1) and (2) apply to all stages of the life of the animals to which they apply.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Exceptions from section 12A.

12B(1) A person shall not be guilty of an offence under section 12A(1) or under 12A(2)(a) or (b) if he shows that the contravention in question–

- (a) was in relation to an animal that had been disabled otherwise than by his unlawful act; and
- (b) was done solely for one or more of the purposes of–
 - (i) tending and releasing it when no longer disabled; or
 - (ii) releasing it after it had been tended.

(2) A person shall not be guilty of an offence under section 12A(1) or under section 12A(2)(a) or (b) if he shows that the contravention in question–

- (a) was in relation to an animal that had been disabled otherwise than by his unlawful act and that there was no reasonable chance of it recovering; and
- (b) was done solely for one or more of the purposes of–
 - (i) ending the animal's life; or
 - (ii) disposing of it (otherwise than by sale or exchange) as soon as practicable after it was dead.

(3) A person shall not be guilty of an offence under section 12A(1) by reason of the injuring of the cetacean if he shows that this was done solely for the purpose–

- (a) of taking a sample by virtue of any provision of the Nature Protection Act; or
- (b) of taking a sample for the purposes of giving evidence in any criminal proceedings in respect of an offence under this Act, the Nature Protection Act or the Crimes Act 2011.

(4) A person shall not be guilty of an offence under section 12A(2)(a) or (b) if he shows that the contravention in question was done for the purposes of–

- (a) investigating whether an offence is being or has been committed;

- (b) bringing, conducting or giving evidence in, any criminal proceedings in respect of any such offence; or
- (c) giving effect to an order of the Supreme Court.

(5) The defences in subsections (1) to (4) apply unless it is shown by the prosecution that the defendant's action did not satisfy the following conditions–

- (a) that there was no satisfactory alternative; and
- (b) that the action was not detrimental to the maintenance of the populations of the species concerned at a favourable status in their natural range.

PART IV. **LEGAL PROCEEDINGS.**

Proceedings to be summary.

13. Save for any legal proceedings brought under section 5, 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 concerned until the appeal is determined or abandoned and to produce it, if possible, if the court so directs at the hearing of the appeal.

Dangerous animals.

14. (1) The magistrates' court may likewise take cognizance of a complaint that an animal 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 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 at half of level one on the standard scale for every day during which he fails to comply with such order.

Damage to animals.

15. A person who, by cruelty within the meaning of this Act to any animal, does or causes to be done, any damage or injury to the animal or any person or property, and who is convicted for the cruelty under this Act, is liable

¹ 1961-23

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 level two on the standard scale, 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 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 alive, to direct that the animal be destroyed and to assign the animal to any suitable person for those purposes; and the person to whom such animal is so assigned shall, as soon as possible, destroy such animal, or cause or procure such animal to be destroyed in his presence without unnecessary suffering. Any reasonable expenses incurred in destroying the animal may be ordered by the court to be paid by the owner, and thereupon shall be recoverable summarily as a civil debt:

Provided that, 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 is guilty of cruelty within the meaning of this Act to the animal, the court, upon his conviction thereof, may in addition to any other punishment, deprive such person of the ownership of the animal, and may make such order as to the disposal of the animal 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, 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 (1954 c.40, s.1).

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 any animal of a kind specified in the order.

(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 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 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 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 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 at level one on the standard scale for the first occasion, and at level two on the standard scale 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 in the following cases:—

- (a) in any question as to the age of any dog;
- (b) in any question as to whether an animal 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 is kept or permitted to remain shall be presumed to be the owner or person having the custody of such animal.

**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 at level four on the standard scale.

Penalties for breach of rules.

21. Rules made under the provisions of this Act may provide—

- (a) that any person who moves or imports any animal into Gibraltar, or attempts to move or import any animal into Gibraltar, in breach of the rules shall be liable, on summary conviction, to a fine up to level 4 on the standard scale or to imprisonment for up to six months or both; and
- (b) such other penalties as are necessary.

PART VA
ANIMALS IN DISTRESS

Powers in relation to animals in distress.

21A.(1) If an authorised officer reasonably believes that an animal is suffering, he may take, or arrange for the taking of, such steps as appear to him to be immediately necessary to alleviate the animal's suffering.

(2) Subsection (1) does not authorise destruction of an animal.

(3) If the Government Veterinary Practitioner certifies that the condition of an animal is such that it should in its own interests be destroyed, an authorised officer may—

- (a) destroy the animal where it is or take it to another place and destroy it there; or
- (b) arrange for the doing of any of the things mentioned in paragraph (a).

(4) An authorised officer may act under subsection (3) without the certificate of the Government Veterinary Practitioner if it appears to him—

- (a) that the condition of the animal is such that there is no reasonable alternative to destroying it; and
- (b) that the need for action is such that it is not reasonably practicable to wait for the Government Veterinary Practitioner.

(5) An authorised officer may take an animal into possession if the Government Veterinary Practitioner certifies—

- (a) that it is suffering; or
- (b) that it is likely to suffer if its circumstances do not change.

(6) An authorised officer may act under subsection (5) without the certificate of the Government Veterinary Practitioner if it appears to him—

- (a) that the animal is suffering or that it is likely to do so if its circumstances do not change; and
- (b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.

(7) The power conferred by subsection (5) includes power to take into possession dependent offspring of an animal taken into possession under that subsection.

(8) Where an animal is taken into possession under subsection (5), an authorised officer may—

- (a) remove it, or arrange for it to be removed, to a place of safety;
- (b) care for it, or arrange for it to be cared for—
 - (i) on the premises where it was being kept when it was taken into possession, or
 - (ii) at such other place as he thinks fit;
- (c) mark it, or arrange for it to be marked, for identification purposes.

(9) A person acting under subsection (8)(b)(i), or under an arrangement under that provision, may make use of any equipment on the premises.

(10) The Government Veterinary Practitioner may examine and take samples from an animal for the purpose of determining whether to issue a certificate under subsection (3) or (5) with respect to the animal.

(11) If a person exercises a power under this section otherwise than with the knowledge of a person who is responsible for the animal concerned, he must, as soon as reasonably practicable after exercising the power, take such steps as are reasonable in the circumstances to bring the exercise of the power to the notice of such a person.

(12) A person commits an offence if he intentionally obstructs a person in the exercise of a power conferred by this section.

(13) A magistrates' court may, on application by a person who incurs expenses in acting under this section, order that he be reimbursed by such person as it thinks fit.

(14) A person affected by a decision under subsection (13) may appeal against the decision to the Supreme Court.

Power of entry for section 21A purposes.

21B.(1) An inspector or police officer may enter premises for the purpose of searching for an animal and of exercising any power under section 21A in relation to it if he reasonably believes—

- (a) that there is an animal on the premises; and
- (b) that the animal is suffering or, if the circumstances of the animal do not change, it is likely to suffer.

(2) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling.

(3) An inspector or a police officer may (if necessary) use reasonable force in exercising the power conferred by subsection (1), but only if it appears to him that entry is required before a warrant under subsection (4) can be obtained and executed.

(4) Subject to subsection (5), a justice of the peace may, on the application of an inspector or police officer issue a warrant authorising an inspector or a police officer to enter premises for the purpose mentioned in subsection (1), if necessary using reasonable force.

(5) The power to issue a warrant under subsection (4) is exercisable only if the justice of the peace is satisfied—

- (a) that there are reasonable grounds for believing that there is an animal on the premises and that the animal is suffering or is likely to suffer if its circumstances do not change; and
- (b) that subsection (6) is satisfied in relation to the premises.

(6) This section is satisfied in relation to premises if any of the following four conditions are met—

- (a) that the whole of the premises is used as a private dwelling and the occupier has been informed of the decision to apply for a warrant;
- (b) that any part of the premises is not used as a private dwelling and that each of the following applies to the occupier of the premises—
 - (i) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
 - (ii) he has failed to allow entry to the premises on being requested to do so by an inspector or a police officer;
 - (iii) he has been informed of the decision to apply for a warrant.

- (c) that—
 - (i) the premises are unoccupied or the occupier is absent; and
 - (ii) notice of intention to apply for a warrant has been left in a conspicuous place on the premises;
- (d) that it is inappropriate to inform the occupier of the decision to apply for a warrant because—
 - (i) it would defeat the object of entering the premises; or
 - (ii) entry is required as a matter of urgency.

Orders in relation to animals taken under section 21A(5).

21C.(1) The magistrates' court may order any of the following in relation to an animal taken into possession under section 21A(5)–

- (a) that specified treatment be administered to the animal;
- (b) that possession of the animal be given up to a specified person;
- (c) that the animal be re-homed;
- (d) that the animal be disposed of otherwise than by way of re-homing;
- (e) that the animal be destroyed.

(2) If an animal is taken into possession under section 21A(5) when it is pregnant, the power conferred by subsection (1) shall also be exercisable in relation to any offspring that results from the pregnancy.

(3) The power conferred by subsection (1) shall be exercisable on application by–

- (a) the owner of the animal; or
- (b) any other person appearing to the court to have a sufficient interest in the animal.

(4) A court may not make an order under subsection (1) unless–

- (a) it has given the owner of the animal an opportunity to be heard;
or
- (b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(5) Where a court makes an order under subsection (1), it may—

- (a) appoint a person to carry out, or arrange for the carrying out, of the order;
- (b) give directions with respect to the carrying out of the order;
- (c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;
- (d) order a person to reimburse the expenses of carrying out the order.

(6) In determining how to exercise its powers under this section, the court shall have regard, amongst other things, to the desirability of protecting the animal's value and avoiding increasing any expenses which a person may be ordered to reimburse.

(7) A person commits an offence if he intentionally obstructs a person in the exercise of any power conferred by virtue of this section.

(8) Where a Court makes an order under section 21C(1), the owner of the animal to which the order relates may appeal against the order to the Supreme Court.

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. Every such person arrested shall be brought before a justice with the least possible delay.

(1A) An authorised officer may require any person entering Gibraltar to inform him whether he has any animal or animals in his control or possession.

(1B) An authorised officer may require any person entering Gibraltar with an animal in his control or possession to prove that he holds any import licence, pet passport, veterinary certificate or other permit or document which is required under this Act or the EC Regulation.

(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 (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.

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

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

(6) If the Government Veterinary Practitioner certifies that any such animal 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 Practitioner to order that the animal be slaughtered and the body disposed of, without the consent of the owner, in such manner as the Government Veterinary Practitioner 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 or the EC Regulation, 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 at level one on the standard scale.

Seizure of stray animals.

24. (1) Where an authorised officer has reason to believe that any animal found in a public place is a stray animal, he may seize the animal 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 has been so seized the Environmental Agency 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 has been so seized and will be liable to be re-homed 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 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 has not claimed it and paid all expenses and prescribed fees incurred by reason of its being impounded, or it appears that the animal has no owner, the Environmental Agency may cause the animal to be re-homed 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 and in the disposal of its carcass may be recovered from the owner or person having the custody of the animal by the Environmental Agency 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, may 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 apparently astray in any public place or on any Government or private property shall forthwith either—

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

and where an animal 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 and who fails to comply with the provisions of this section is guilty of an offence and is liable on conviction to a fine at level one on the standard scale.

(3) A person who—

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

is guilty of an offence and is liable on conviction to a fine at level two on the standard scale.

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 at level two on the standard scale.

Rules.

26. The Minister 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, or any specified kind thereof and for the control, seizure, detention, disposal and slaughter of any animals within Gibraltar;
- (bb) prescribing the removal from Gibraltar of any animal which has been illegally imported;
- (c) prescribing and regulating the burial, disposal or treatment of carcasses of animals 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 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;
- (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;
- (ja) providing for the issue of fixed penalty notices for specified offences in such circumstances and subject to such conditions as may be prescribed;
- (k) prescribing the form of any register or database, 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;
- (kk) for the purpose of complying with any obligation arising under the Treaties (as defined by the European Communities Act);
- (l) generally for carrying the provisions of this Act into effect.

Amendments to Schedule.

27. The Minister may amend the Schedule to this Act by notice in the Gazette.

SCHEDULE

AUTHORISED OFFICERS

The following are authorised officers under section 2–

- (a) a member of the Royal Gibraltar Police as defined in section 2 of the Police Act 2006;
- (b) the Chief Environmental Health Officer or such person as he shall appoint from the Environment Agency Limited;
- (c) a Wildlife Warden appointed under section 21(1) of the Nature Protection Act, 1991;
- (d) the Chief Executive Officer of the Department of the Environment, Heritage and Climate Change or such person as he shall appoint.
- (e) The Government Veterinary Practitioner;
- (f) a Customs Officer of Her Majesty's Customs.