

REPUBLIC OF NAMIBIA

NATIONAL ASSEMBLY

ANIMAL PROTECTION AND WELFARE BILL, 2019

21 SEPTEMBER 2019

(As read a First Time)

(Introduced by the Minister of Justice)

[B. X- 2019]

BILL

To state the objects, principles and standards of animal welfare; create an obligation to report animal cruelty; prohibit general and specific forms of animal cruelty; establish the Society for the Prevention of Cruelty to Animals of Namibia; provide for alternative methods of retribution upon conviction; regulate research on animals; regulate the breeding and sale of cats and dogs; prohibit zoos and circuses; and to provide for matters incidental thereto.

(Signed by the President on xx Month 2019)

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BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

PART 1

INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise-
“abandoned animal” includes an animal that is:

- (a) left for more than 24 hours without adequate food, water or shelter;
- (b) left for three days or more after the expected retrieval time from a registered veterinarian ~~or from a qualified person~~ animal shelter, boarding facility or any person in whose care the animal was left, whether paid to care for the animal or not; or

- (c) found on premises whereby the tenancy agreement of the original owner of the animal has been terminated;
- (d) found as a stray or free-roaming animal without a caretaker accompanying the animal.

“animal” means any non-human, living creature;

~~a vertebrate, excluding a human;~~

~~a) — nothing in this Act applies to an animal while it is in its foetal or embryonic form;~~

~~b) — the Minister may by regulations for all or any of the purposes of this Act extend the definition of “animal” so as to include certain invertebrates;~~

“animal fight” means an event where an animal is placed or brought together with an animal or with a human for the purpose of fighting, wrestling or baiting;

“animal welfare organisation” means any animal welfare organisation with the same aims and objectives as the SPCA of Namibia and registered as a welfare organisation with the responsible Ministry;

“caretaker” means a person who has control, custody, possession, title or other legal interest in an animal;

“distress” means a state in which an animal is unable to adapt to one or more stressors, is no longer successfully coping with its environment, and its well-being is compromised whether the distress is arising from injury, neglect, abuse, disease;

“emotional distress” means fear, anger, anxiety, and suffering endured or experienced by an animal;

“humane killing”/ humane euthanasia means a procedure performed by a ~~qualified~~ person using tools and methods approved for such purpose and in a manner which causes the animal the least amount of pain, suffering and fear;

“licensed breeding establishment” means an establishment established under section XX that breeds domestic animals kept as pets for sale directly to a caretaker;

“minimum care” means relevant care sufficient to preserve the health and welfare of an animal and, except for emergencies or circumstances beyond the reasonable control of the caretaker, includes but is not limited to the following requirements:

- (a) food of sufficient quantity and quality to allow for the normal growth or maintenance of **optimal** animal body weight;
- (b) open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal’s needs;
- (c) access to a barn, house, **shelter, shade** or any other enclosed structures sufficient to protect the animal from the elements;
- (d) adequate bedding to protect the animal from the elements **and injury**;
- (e) veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease;
- (f) veterinary care to prevent illness;
- (g) continuous access to an area, kept ~~reasonably~~ clean and free from excess waste or other contaminants that could affect the health **and welfare** of the animal, with adequate space for exercise for the health **and welfare** of the animal, regular diurnal lighting cycles of either natural or artificial light, adequate air temperate, and adequate ventilation;

“Minister” means the minister responsible for justice;

“officer” means a **qualified** person appointed by the SPCA of Namibia or police official;

“person” means an individual, corporation, trust, partnership, association, **welfare organisation** or any other legal entity **recognised by Namibian law**;

“physical injury” means physical trauma, impairment of the physical condition, or pain ~~inconsistent with reasonable handling or training techniques~~;

“physical trauma” means **abrasions**, bruises, burns, cuts, fractures, punctures or other wounds or illnesses produced by violence or by a thermal or chemical agent;

“possession” means to have physical custody of or to exercise dominion or control over an animal;

“psychological distress” means unpleasant feelings or emotions that impact an animal’s level of functioning and expressing normal behaviour;

“research activity” means one or more procedures performed on an animal for experimental or other scientific purposes; ~~which may cause it pain, suffering or injury~~

“serious physical injury” means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ;

“slaughter” means instantaneous death or pre-stunning an animal rendering it unconscious before bleeding to death;

“SPCA of Namibia” means the Society for the Prevention of Cruelty to Animals of Namibia established in terms of section XX;

“torture” means any action taken to inflict, increase, or prolong pain and suffering;

“trap” means a net, cage, snare, pen, pitfall, or mechanical or adhesive object used for the purpose of killing, entrapping, capturing, entangling, restraining, or immobilising an animal;

“vermin” includes health risk vermin (HV), destructive vermin (DV), and invasive species;

“veterinarian” means a person registered and permitted to practice veterinary medicine in Namibia under the Veterinary and Veterinary Para-Professions Act, 2013 (Act No. 1 of 2013).

Objectives of the Act

2. The objectives of this Act are to:
 - a) prohibit animal cruelty;
 - b) promote animal welfare;
 - c) create awareness of proper treatment of animals;
 - d) govern the responsibilities, obligations and duties of persons in relation to the protection of animals, including the protection of animal life, health and welfare;
 - e) provide for investigation, prosecution and penalties for offences against animals;
- and

- f) comply with international standards.

Principles and standards of animal welfare

3. (1) The use of animals for human purposes such as companionship, food, clothing, recreation, work and education, ~~and research conducted for the benefit of both humans and animals~~ must be sustainable and humane.
- (2) Decisions regarding animal care, use, and welfare must be made by balancing scientific knowledge and professional judgment with ethical and societal values.
- (3) Animals must be provided with water, food, proper handling, health care, and an environment appropriate to their care and use, with careful consideration of the biology and behaviour unique to the specific animal.
- (4) Animals must be cared for in ways that minimise fear, pain, distress, and suffering.
- ~~(5) Procedures related to animal housing, management, care, and use must be continuously evaluated, refined or replaced as determined by the SPCA of Namibia.~~
- (6) Conservation and management of animal populations must be humane, socially responsible, and scientifically prudent.
- (7) Animals must be treated with respect and care throughout their lives and, when necessary, provided a humane death. ~~by a qualified person.~~
- (8) The veterinary profession must continually strive to improve animal health and welfare through research, education, collaboration and advocacy to influence legislation and regulations.

Application of the Act

4. (1) ~~This Act does not apply to:~~
 - ~~(a) marine animals;~~

~~(b) — the commission of any act in the course of the killing, or the preparation for killing, of any animal as food for a human, unless such killing or such preparation was accompanied by torture.~~

~~(2) — The Act applies to wild animals.~~

(1) The caretaker of any animal is liable under this Act if by exercising reasonable care and supervision in respect of that animal the caretaker could have prevented injury to the animal.

Obligation to render assistance

5. (1) Any person who injures an animal must render assistance to the animal to relieve distress.

(2) If he or she is not able to render assistance him or herself he or she must arrange for professional assistance to be provided.

(3) A person who witnesses animal cruelty has an obligation to report it to the SPCA of Namibia, another animal welfare organisation or an officer.

PART 2

OFFENCES

General

6. (1) A person who-

(a) overloads, overdrives, overrides, beats, kicks, suffocates; hangs; goads, ill-treats, neglects, infuriates, terrifies, tortures or maims any animal;

(a) confines, chains, tethers or secures an animal unnecessarily or in such a manner, position or place to cause that animal unnecessary suffering;

(b) confines, chains, tethers or secures an animal in any place which affords inadequate space, ventilation, light, protection or shelter from the elements;

- (c) ~~unnecessarily~~ starves or under-feeds or denies water or food to any animal;
- (d) deliberately or negligently keeps an animal in a dirty or parasitic condition;
- (e) allows an animal to become infested with external parasites;
- (f) fails to render or procure veterinary treatment which he or she is able to render or procure for an animal in need of such treatment;
- (g) fails to ~~terminate~~ obtain assistance to **humanely kill** an animal which is so seriously injured or diseased or in such a physical condition that to prolong its life would be cruel and would cause such animal unnecessary suffering;
- (h) uses on or attaches to an animal any equipment, appliance or vehicle which causes or will cause injury to such animal or which is used in such a manner to cause an animal to be injured **or become distressed**;
- (i) drives or uses an animal which is diseased or injured or in such a physical condition that it is unfit to be driven or to do any work;
- (k) **liberates any bird in such a manner as to expose it to immediate attack or danger of attack by animals or wild birds; or**
- (l) without reasonable cause administers to any animal any poisonous or **injurious drug or substance,**

is guilty of an offence and liable on conviction to a fine not exceeding N\$ 10 000 or in default of payment to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment.

Animal Abandonment

7. (1) A person commits the offence of animal abandonment if the person, with intent or ~~gross~~ negligence, abandons an animal, whether permanently or not, without providing the animal with minimum care.
- (2) Each act in violation of subsection (1) constitutes a separate criminal offence.

- (3) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 10 000 or to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment.

Animal Abuse

- 8.** (1) A person commits the offence of animal abuse if, ~~except as otherwise authorised by law,~~ the person, with intent or ~~gross~~ negligence, causes distress, emotional distress, psychological distress, physical injury, physical trauma or serious physical injury to an animal or kills an animal under circumstances demonstrating deliberate malice.
- (2) Each act in violation of subsection (1) constitutes a separate criminal offence.
- (3) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.
- (4) The sentence imposed under subsection (3) will ~~vary according~~ be subject to the level of animal abuse and the following aggravating circumstances:
- (a) the accused has been previously convicted of one or more offences under this Act; or
- (b) The person knowingly commits the offence of animal abuse in the immediate presence of a minor. For purposes of this subsection, a minor is in the immediate presence of the animal abuse if the abuse is seen or directly perceived in any other manner by the minor.

Animal Torture

- 9.** (1) A person commits the offence of animal torture if the person, with intent or ~~gross~~ negligence, tortures an animal.
- (2) Each act in violation of subsection (1) constitutes a separate criminal offence.

(3) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 25 000 or to imprisonment for a period not exceeding 15 years or to both such fine and such imprisonment.

Animal fighting

10. (1) No person may cause, sponsor, arrange, hold, or encourage another person or animal to fight, menace or injure an animal for the purpose of sport, amusement, or pecuniary gain.

(2) For the purposes of this section, a person encourages an animal to fight, menace or injure another animal for the purpose of sport, amusement, or pecuniary gain, if the person:

- (a) is knowingly present at or wagers on a fight
- (b) owns, trains, transports, possesses, breeds or equips an animal with the intent that such an animal will be engaged in a fight;
- (c) knowingly allows a fight at any property owned or controlled by the person;
- (d) knowingly allows any animal used for a fight to be kept, boarded, housed, or trained on or transported in, any property owned or controlled by the person;
- (e) knowingly uses any means of communication for the purpose of promoting a fight; or
- (f) knowingly possesses any animal or device intended to enhance the animal's ability for a fight.

(3) Each act in violation of subsection (1) constitutes a separate criminal offence.

(4) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(5) A person previously convicted of an offence under subsection (1) or the person knowingly commits an offence under subsection (1) in the presence of a minor child is

liable to a fine not exceeding N\$ 200 000 or to imprisonment for a period not exceeding 15 years or to both such a fine and such imprisonment.

Animal Neglect

11. (1) A person commits the offence of animal neglect if the person with intent or ~~gross~~ negligence fails to provide minimum care for an animal in the person's possession which leads to the *distress, emotional distress, psychological distress, physical injury, serious physical injury or death of the animal.*

(2) Each act in violation of subsection (1) constitutes a separate criminal offence.

(3) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

Traps

12. (1) It is an offence to lay a trap or any other device or to expose any poison or *any poisoned fluid or edible matter* or infectious agents for the purpose of capturing, restraining or killing an animal, *notwithstanding the population management of wildlife by bona fide* livestock and game farmers and wildlife rangers.

(2) Notwithstanding subsection (1), vermin may be *humanely killed* for the protection of property or for the prevention of the spread of disease, *only in the event that alternative methods for limiting populations have been applied without success.*

(3) The Minister may prescribe animals as *health risk vermin, destructive vermin, and invasive species,* for such period of time as may be necessary.

(4) No person may, *except under the authority of a permit issued by the State Veterinarian, Ministry of Environment and Tourism, or the SPCA of Namibia, or any person authorised by the SPCA of Namibia in terms of an authority delegated to such person by it, sell, rent, or provide any trap or other device intended for the capture of any animal, including any wild animal (not being a rodent) or wild bird, to any person.*

(5) The Minister may make such regulations to provide for the requirements, standards, processes, and eligibility for such permits, and any ancillary matters necessary for the proper implementation of this section.”

(6) Each act in violation of subsection (1) constitutes a separate criminal offence.

(7) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

Animal bodily alterations, disablements and removals

13. (1) It is an offence for any person to remove, permanently alter or disable any part or the function of any part of an animal, including the docking of a dog’s tail, ear cropping, declawing of cats, debeaking, de-horning of wild animals, devocalisation, defanging, nicking, and other physical or chemical interventions, including cosmetic in nature, aimed at changing the appearance of the animal, except as necessary for the health of the animal or controlling the reproduction of the animal.

(2) Ear-tipping or a spay and neuter tattoo during anaesthesia in cats and dogs is excluded from this section.

(3) The Minister may prescribe any other process or practice as prohibited in terms of this section.

(4) Each act in violation of subsection (1) constitutes a separate offense.

(5) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

Defences

14. (1) It is an affirmative defence to prosecution for violation of this Chapter that the person reasonably and humanely caused the death of an animal to end the immediate and intractable suffering of the animal.

- (2) Trespassing of an animal is not a defence to any offence under this Act.
- (3) It is not a defence to the offence of animal abandonment that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

PART 3

SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OF NAMIBIA AND ANIMAL WELFARE ORGANISATIONS

Establishment

- 15.** (1) There is hereby ~~established~~ recognised a juristic body known as the Society for the Prevention of Cruelty to Animals of Namibia (SPCA of Namibia).
- (2) SPCA of Namibia ~~and animal welfare organisations~~ will operate in terms of the relevant legislation relating to ~~non-profit companies~~ ~~welfare organisations~~.
- (3) The Minister may prescribe additional requirements for the functioning of the SPCA of Namibia ~~and animal welfare organisations~~.

Powers of officers

- 16.** (1) Any officer is authorised to enter any premises where an animal is kept, for the purpose of examining the conditions under which it is kept.
- (2) An officer is authorised to:
- (a) enter any premises without a warrant with the consent of the caretaker, or failing such consent, on obtaining an order from a magistrate, or if there is reason to believe that the ends of justice would be defeated by the delay in obtaining an order,
 - (b) without a warrant arrest any person who is suspected on reasonable grounds of having committed an offence under this Act, if there is reason

to believe that the ends of justice would be defeated by the delay in obtaining a warrant;

- (c) remove and take possession of an animal not receiving minimum care or it is suspected on reasonable grounds that an offence under this Act is committed, pending an arrest;
 - (d) arrest any person on a charge of an offence under this Act;
 - (e) take possession of an animal in the possession of an arrested person and place it in the custody of the nearest SPCA of Namibia or [animal welfare organisation](#);
 - (f) seize any evidence in the possession of an arrested person at the time of the arrest; and
 - (g) collect any abandoned animal and take it to the nearest SPCA of Namibia or [animal welfare organisation](#).
- (3) Any authority granted to the officer may at any time for adequate reasons be revoked by the Chief Executive Officer of the SPCA of Namibia.
- (4) An officer to whom authority has been granted must, when required to do so in the exercise of his or her powers, produce proof of that authority for inspection.
- (5) Any person who wilfully:
- (a) obstructs, hinders or resists an authorised officer in the exercise of the powers conferred upon him or her;
 - (b) conceals any animal or thing with intent to defeat the exercise of such powers;
 - (c) or who upon demand fails to give his or her name and address to such officer

is guilty of an offence and liable on conviction to a fine of [N\\$ 5 000](#) or to [imprisonment](#) for a period not exceeding 1 year or to both such fine and such imprisonment.

When officer may terminate an animal

- 17.** (1) If an officer is of the opinion that any animal is severely diseased or injured or in such a physical condition that the animal ought to be killed, he or she must humanely kill the animal with the consent of the caretaker.
- (2) If the caretaker is absent or refuses to consent to the killing of the animal, the officer must summon a veterinarian, and if such veterinarian after having duly examined such an animal certifies that the animal is severely diseased or injured or in such physical condition that it would be cruel to keep it alive, such officer may without the consent of the caretaker humanely kill the animal.
- ~~(3) If there is no veterinarian within a reasonable distance, two adult persons whom the officer considers to be reliable and of sound judgment may be summoned instead.~~
- ~~(4) Any officer who kills an animal in the absence of the caretaker must, if such caretaker's name and address are known, advise the caretaker of the termination, and where the termination of an animal takes place on any public place or road, subject to the provisions of the Animal Health Act, 2011 (Act No.1 of 2011), remove the carcass or cause it to be removed.~~
- (4) A veterinarian may exercise the powers conferred upon an officer without summoning another veterinarian or any other person.
- (5) Any expenses which may be reasonably incurred by an officer or veterinarian in carrying out the provisions of this section will be recovered from the caretaker of the animal.
- (6) It is a defence to an action brought against any person arising out of the killing of an animal by him or her or with his or her authority, to prove that such animal was severely diseased or injured or in such a physical condition that it would have been cruel to have kept it alive, and that to summon an officer or follow the procedure prescribed in this section would have occasioned unreasonable delay and unnecessary suffering to such animal.

Caretaking Structures

- 18.** (1) SPCA of Namibia or animal welfare organisations are authorised to establish and maintain caretaking structures.

- (2) SPCA of Namibia or animal welfare organisations are entitled to recover from the caretaker of an animal in its care any reasonable expenses necessarily incurred by the SPCA of Namibia in providing minimum care and rendering veterinary treatment to such animal.

Cost of Care

- 19.** (1) The caretaker of an animal that has been charged under this Act must post a bond, into a bank account specifically created for this purpose, with the SPCA of Namibia or animal welfare organisation in the amount determined by the SPCA of Namibia or animal welfare organisation sufficient to provide for the animal's minimum care for 30 days, including the day the animal is taken into care, to prevent the dispossession of the animal by the SPCA of Namibia or animal welfare organisation that has temporary care of the animal.
- (2) If a bond has been posted the SPCA of Namibia or animal welfare organisation must draw from the bond the actual reasonable costs incurred in providing minimum care to the animal in its care from the date of initial caretaking to the date of return of the animal to the caretaker or dispossession.
- (3) If a bond is not posted the animal is deemed abandoned and the SPCA of Namibia or animal welfare organisation must determine final dispossession of the animal in accordance with reasonable practices for the humane treatment of animals.
- (4) At the end of the time for which expenses are covered by the bond, if the caretaker desires to prevent dispossession of the animal by the SPCA of Namibia or animal welfare organisation, the caretaker must post a new bond with the court within ten days preceding the prior bond's expiration.
- (5) However, nothing in this section will prohibit the immediate disposal of the animal by euthanasia if, in the opinion of a licensed veterinarian, officer the animal is experiencing extreme pain or suffering.
- (6) The caretaker is liable for all costs of providing minimum care or disposal of the animal.

PART 4

POST-CONVICTION PROVISIONS

Termination of caretaker rights

- 20.** (1) In addition to the penalties under this Act a court may also order that an animal be removed from the protection of the caretaker and placed under the possession of the SPCA of Namibia or animal welfare organisation.
- (2) Possession of the animal is transferred to the SPCA of Namibia or animal welfare organisation and any proceeds from the sale of the animal will be paid to the caretaker after the deduction of expenses incurred in the minimum care of the animal.

Community Service

- 21.** In addition to the penalties under this Act a court may order the defendant to participate in community service at the SPCA of Namibia or animal welfare organisation.

Contact with animals

- 22.** (1) A person convicted of an offense in terms of sections 7, 8, 9, 10, the nature of which is sufficiently serious or where aggravated circumstances are present may be delclared to be unfit to take care of an animal and may not own, possess, reside with, have care of, or contact with any animal for a period of 5 years on a first offense; and for a period of 10 years on a second or subsequent offense.
- (2) Any violation of this section is punishable by a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment and forfeiture of the offender's interest in the animal in favour of the nearest SPCA or animal welfare organisation.

23Power of court to award damages

(1) Whenever any person is convicted by a magistrate's court of an offence under this Act and it is proved that such person has by the commission of that offence caused loss to any other person or that any other person has as the result of such offence incurred expense in providing necessary veterinary attention or treatment, food or accommodation for any animal in respect of which the offence was committed or in caring for such animal pending the making of an order by the court for the disposal thereof, the court may, on application by such other person or by the person conducting the prosecution acting on the instructions of such other person, summarily enquire into and determine the amount of the loss so caused or expense so incurred and give judgment against the person convicted and in favour of such other person for the amount so determined, but not exceeding an amount of N\$ 25 000.00.

(2) Any such judgment shall have effect as if it had been given in a civil action duly instituted before such court.

(3) The provisions of subsections (1) and (2) shall *mutatis mutandis* apply in respect of-

(a) any costs incurred in connection with the custody of an animal seized in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), for the purposes of a prosecution in terms of this Act; and

(b) any costs incurred in connection with the humane killing of an animal in terms of section 17 and the removal and burial or destruction of the carcass.

PART 5

OTHER INTERACTIONS WITH ANIMALS

Research

~~23. (1) Research on animals may only be carried out by legal persons that are registered for carrying out this activity for the following purposes:~~

~~(a) the research of diseases and somatic disorders or the identification of effects of physiological and pathological conditions in humans and animals;~~

- ~~(b) — the testing and development of drugs and medicinal preparations intended for human and animal health protection;~~
 - ~~(c) — the carrying out of studies for the purposes of the registration of drugs and medicinal preparations as prescribed;~~
 - ~~(d) — the investigation of production and other traits and of the ways to improve them in animals farmed for commercial and other purposes;~~
 - ~~(e) — the investigation of causes and consequences of endangering the environment;~~
 - ~~(f) — the testing of materials and products for their harmlessness to the health of humans or animals;~~
 - ~~(g) — basic and applied scientific research; or~~
 - ~~(h) — educational purposes.~~
- ~~(2) — The research activities on animals must only be allowed if the purpose of the research cannot be achieved by other scientific methods and if the pain, suffering or injury that might be caused to the animals can be ethically justified to the Minister in terms of the expected results which are of significance for humans or animals or science.~~

Transport of Animals

- 24.** (1) Animals must be transported, carried or conveyed in such a manner, position and under such conditions to cause the animal minimum discomfort, affording adequate light, ventilation, access to food and water, and protection from the weather.
- (2) Steps must be taken in advance to minimise the length of the journey and of any delay, and to meet the animals' needs during the journey.
- (3) Staff handling animals at border posts must give transport priority and ensure that the transport is stopped in an area with sufficient water and shade for the animals on the transport.
- (4) The expected overall journey duration for the planned route must be determined realistically, taking into account time needed for loading and unloading. If after this journey time

the animals have not reached their destination, they must be unloaded, fed and watered and be rested for a minimum of 24 hours at an approved control post.

Breeding of domestic animals as pets

25. (1) For the purposes of this section an animal means a domestic animal bred with the purpose of being sold as a pet.

(2) A person who keeps a breeding establishment at any premises and carries on at those premises a business of breeding must obtain a licence from the relevant local authority.

(3) A person requires a licence to breed if he or she:

(a) is breeding ~~five~~ **three** or more litters or **offspring** in a **12 month cycle** from the same female animal;

(b) is advertising a business breeding **or trading** animals;

(c) is breeding with **one female more than every other breeding cycle**;

(d) **commerically** sells the animals;

(e) makes any sale **by**, or otherwise carries on, the activity with a view to making a profit; or

(f) earns any commission or fee from the activity, irrespective of the number of litters or offspring produced per year.

(4) The discretion whether to grant a licence is determined by the relevant local authority upon being satisfied that the animal –

(a) is provided with minimum care;

(b) is adequately exercised; and

- (c) is visited by the caretaker at suitable intervals.
- (5) Reasonable precautions must be taken to prevent and control the spread of diseases amongst the animals.
- (6) Adequate breeding records must be kept and made available for inspection upon request by any person.
- (7) The keeper of a licensed breeding establishment is guilty of an offence if he or she—
- (a) sells an animal other than at a licensed breeding establishment;
 - (b) sells an animal which is less than eight weeks old;
 - (c) sells an animal which was not born at a licensed breeding establishment;
 - (d) sells an animal without adequate records of breeding and the records of having administered the required vaccinations; or
 - (e) breeds with an animal before it is physically mature.
- (8) Pet shops selling any animal obtained from various breeders without the prospect of imminent sale and kept in cages and tanks on commercial property are prohibited.
- (9) The SPCA of Namibia or its nearest Branch are authorised to conduct inspections to ensure animals receive minimum care and that all relevant regulations are adhered to, whether a complaint has been lodged or not.
- (10) Any violation of this section is punishable by a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment and forfeiture of the offender's licence to breed or keep or sell animals.

Zoos and circuses

- 26.** (1) It is prohibited to-

- (a) keep a wild animal in an enclosure smaller than prescribed by the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975);
 - (b) tame a wild animal;
 - (c) train a wild animal to perform tricks; or
 - (d) allow humans to interact with a wild animal by touching it.
- (2) Only domestic animals may be kept in zoos and must be kept in accordance with the provisions of this Act.
- (3) Sanctuaries or persons that rescue wild orphaned, injured or problem animals deemed non-releasable into the wild are excluded from the provision of subsection (1)(a) but must adhere to the minimum care for such animals.
- (4) Captive wild animals may not be bred.
- (5) Circuses which have live animals performing are prohibited from entering and performing in Namibia, unless permission has been obtained from the Minister and the relevant permits obtained.
- (6) The Minister must consult the Cabinet and call for public submissions for a period of at least two weeks before making a final decision in terms of subsection (4).

PART 7

GENERAL PROVISIONS

Regulations

- 27.** (1) The Minister may make regulations relating to:
- (a) the method and form of confinement and accommodation of any animal or class, species or variety of animals, whether travelling or stationary;

- (b) any other reasonable requirements which may be necessary to prevent cruelty to or suffering of any animal;
 - (c) the caretaking, custody or confining of any animal due to any condition of such animal and the recovery of any expenses incurred in connection therewith from the caretaker of such animal;
 - (d) the breeding and sale of domestic animals;
 - (e) generally such matters as are required for the better carrying out of the objects and principles of this Act.
- (2) Such regulations may prescribe penalties for contravention thereof or failure to comply therewith not exceeding a fine of N\$ 20 000 or imprisonment for a period of 10 years.

Repeal of laws

28. The Animals Protection Act, 1962 (Act No. 71 of 1962) is hereby repealed in full.

Short title and commencement

29. This Act is called the Animal Protection and Welfare Act, 2019 and comes into force on date of publication in the *Gazette*.
