

Act No. 64, 1901.

PREVENTION
OF CRUELTY TO
ANIMALS.

An Act to consolidate the Acts for the Prevention
of Cruelty to Animals. [24th December, 1901.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Prevention of Cruelty to Animals Act 1901" and is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 1-3.

PART II.—OFFENCES PUNISHMENTS AND COMPENSATION —
ss. 4-7.

PART III.—PROCEDURE—*ss.* 8-12.

Repeal.

2. The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed.

3.

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3. In this Act unless the context or subject matter otherwise indicates or requires— Interpretation.

“Animal” means and includes every species of quadruped and every species of bird whether in a natural or domestic state and all other animals dependent upon man for their care or sustenance or in a state of captivity. No. 11, 1899, s. 1. 55 Vic. No. 5, s. 35.

“Illtreat” includes “beat” “overdrive” “override” “abuse” and “torture” also “knowingly overload” and “knowingly overerowd” 14 Vic. No. 40 s. 1. No. 11, 1899, s. 3.

“Justice” means justice of the peace.

PART II.

OFFENCES PUNISHMENTS AND COMPENSATION.

4. (1) Whosoever
 (a) cruelly illtreats or causes or procures to be cruelly illtreated any animal or
 (b) keeps or uses or acts in the management of any place for the purpose of fighting or baiting any animal or permits or suffers any place to be so used or
 (c) receives money for the admission of any other person to any place kept or used for the purpose of fighting or baiting any animal or
 (d) encourages aids or assists at the fighting or baiting of any animal or
 (e) conveys or carries or causes to be conveyed or carried whether in or upon any vehicle or not any animal in such a manner as to subject such animal to unnecessary pain or suffering
 shall on conviction before any one justice be liable to a penalty not exceeding five pounds or shall on conviction before two justices be liable either to the said penalty or if such justices think fit to imprison-ment with or without hard labour for a term not exceeding three months without the option of a fine.

Illtreating animals.
 14 Vic. No. 40 s. 1.
 No. 11, 1899, s. 1.

Baiting animal.
 14 Vic. No. 40, s. 2.

Receiving money to witness baiting.
Ibid.

Encouraging baiting.
Ibid.

Carrying animals so as to cause pain.
Ibid. s. 4.
 No. 11, 1899, s. 2.

Fine by one justice. Imprisonment or fine by two justices.
 14 Vic. No. 40 ss. 1, 2, 4, 10, proviso.
 No. 11, 1899, ss. 2, 3, 5.

(2) A penalty of five pounds may be imposed for every day on which an offence is committed under clause (b) or (c) of the last subsection. Separate fine for each day offence is committed.
 14 Vic. No. 40, s. 2.

5. Whosoever at any time or in any manner unlawfully obstructs hinders molests or assaults any constable or other person whilst in the exercise of any power or authority under or by virtue of this Act shall on conviction before any one justice be liable to a penalty Obstructing constable.
 14 Vic. No. 40, s. 10, proviso.
 No. 11, 1899, s. 4.

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penalty not exceeding ten pounds or shall on conviction before two justices be liable either to the said penalty or if such justices think fit to imprisonment with or without hard labour for a term not exceeding three months without the option of a fine.

Offences committed by drivers or conductors of hackney carriages &c.
14 Vic. No. 40, s. 14.

6. (1) Whenever a complaint is made against the driver or conductor of any hackney or stage carriage or the driver of any other vehicle for any offence committed by him against the provisions of this Act the justice to whom the complaint is made may forthwith summon the owner of such carriage or vehicle to produce before him the driver conductor or other servant by whom the offence was committed to answer the complaint.

Proprietors of vehicles to be summoned to produce their servants.

Ibid.

(2) If such proprietor or owner after being duly summoned fails to produce the driver conductor or servant the justice before whom such driver conductor or servant is required to be produced may proceed in the absence of such driver conductor or servant to hear and determine the case in the same manner as if he had been produced and to adjudge payment by the proprietor or owner of any penalty or sum of money and costs in which the driver conductor or servant is convicted.

Recovery from servant of sum paid.
Ibid.

(3) Any sum of money so paid by the proprietor or owner may upon proof of payment thereof and of such servant's refusing or neglecting to be produced pursuant to the order of the justice be recovered in a summary way from the driver conductor or servant through whose default such sum has been paid in the same manner as a penalty.

Penalty on proprietor or owner for not producing his servant.

Ibid.

(4) The justice may if such proprietor or owner fails to produce his driver conductor or servant without satisfactory excuse impose a penalty of forty shillings upon such proprietor or owner as often as he is summoned in respect of the complaint until he produces the driver conductor or servant.

Compensation to be paid by offender for injury caused to animal person or property

Ibid. s. 3.

7. (1) Every person who by cruelly illtreating any animal does damage or injury to such animal or thereby causes damage or injury to be done to any person or property shall on conviction of such offence pay to the owner of such animal (if the offender be not the owner thereof) or to the person who or whose property has been damaged or injured a sum of money not exceeding ten pounds by way of compensation to be ascertained and determined by the convicting justice.

Recovery of compensation.
Ibid. s. 3, 10.

(2) The convicting justice shall order the amount so ascertained and determined to be paid forthwith by the person convicted to the person who or whose property is injured and such amount shall be added to the penalty (if any) imposed upon and the costs (if any) adjudged against the person convicted and the provisions of section seven of the Justices Acts Amendment Act of 1900 shall apply as if such amount and penalty and costs were payable under one order.

(3)

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(3) The payment of such compensation or any imprisonment for the non-payment thereof shall not prevent or in any manner affect the punishment to which such person or the owner of such animal may be liable for or in respect of the illtreating of the said animal. Compensation not to affect punishment. 14 Vic. No. 40, s. 3.

(4) Nothing in this section contained shall prevent any proceeding by action against such offender or his employer where the amount of damage or injury is not sought to be recovered under this Act. Actions in other courts not restrained. *Ibid.*

PART III.

PROCEDURE.

8. (1) Any constable may upon his own view of the commission of an offence under this Act or upon the complaint of any other person seize and secure the offender and forthwith and without any other warrant or authority convey him before a justice. Constable may arrest at sight or upon information. *Ibid.* s. 5.

(2) Every person making a complaint to a constable shall declare his name and place of abode to the constable. Informers to give his name and abode. *Ibid.*

9. Every complaint under this Act shall be made within one month after the cause of complaint arose. Complaint within one month. *Ibid.* s. 6.

10. (1) Whenever a constable arrests any person having charge of any vehicle or animal for an offence against the provisions of this Act he may take charge of such vehicle or animal and deposit the same in some place of safe custody as security for payment of any penalty to which such person or the owner of such vehicle or animal may become liable and the expenses which have been or may be necessarily incurred for taking charge of and keeping the same. Constable may detain vehicle or animal as security for penalty. *Ibid.* s. 11.

(2) The justice who hears the case may in default of payment order such vehicle or animal to be sold for the purpose of satisfying such penalty and reasonable expenses in like manner as if the said vehicle or animal had been subject to be distrained and had been distrained upon for the payment of such penalty and expenses. Vehicle or animal may be sold. *Ibid.*

11. Whenever it is by the oath of any credible person made to appear to the satisfaction of a police or stipendiary magistrate or two justices that an offence against this Act has been or is about to be committed on or in certain premises such magistrate or justices may by writing under his or their hand authorise such person or some constable named therein to enter upon or into such premises and inspect any animal confined or kept there. Justices may allow certain premises to be inspected. No. 11, 1899, s. 4.

12. (1) Whenever an action is brought against any person for anything done in pursuance or under the authority of this Act the provisions of sections eight to fourteen inclusive of the Imperial Act eleven and twelve Victoria chapter forty-four as adopted by the Act Actions against justices and others. Application of provisions of Justices (Protection) Act. 14 Vic. No. 40 ss. 19,
fourteen

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fourteen Victoria number forty-three shall apply as though such person were a justice of the peace except that the time limited for commencing any such action shall be three months next after the act complained of was committed.

(2) The defendant shall in all cases where he obtains judgment upon verdict or otherwise be entitled to his full costs in that behalf to be taxed as between attorney and client.

SCHEDULE.

Number of Act.	Title.	Extent of repeal.
14 Vic. No. 40	An Act for the more effectual prevention of Cruelty to Animals.	The whole Act.
55 Vic. No. 5 ...	The Criminal Law and Evidence Amendment Act of 1891.	The unrepealed portion of section 35.
No. 11, 1899 ...	An Act to amend the law respecting Cruelty to Animals.	The whole Act.