

Nru 21

11. 10. 2022

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Anton Refalo, M.P., Ministru għall-Agricoltura, is-Sajd u d-Drittijiet tal-Annimali u moqri għall-Ewwel darba fis-Seduta tal-10 ta' Ottubru 2022.

A BILL introduced by the Honourable Anton Refalo, M.P., Minister for Agriculture, Fisheries and Animal Rights and read the First time at the Sitting of the 10th October 2022.

ATT sabiex jemenda l-Att dwar it-Trattament Xieraq tal-Annimali, Kap. 439.

AN ACT to amend the Animal Welfare Act, Cap. 439.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex jemenda l-Att dwar it-Trattament Xieraq tal-Annimali, Kap. 439.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 li jemenda l-Att dwar it-Trattament Xieraq tal-Annimali u dan l-Att għandu jinqara u jinftiehem ħaġa waħda mal-Att dwar it-Trattament Xieraq tal-Annimali, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor u bidu fis-seħh. Kap. 439.

(2) Dan l-Att għandu jidhol fis-seħh fi żmien xahrejn (2) mill-pubblikazzjoni tiegħu fil-Gazzetta.

2. L-artikolu 1 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 1 tal-Att prinċipali.

"Titolu fil-qosor u għan.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att dwar it-Trattament Xieraq tal-Annimali.

(2) L-għan ta' dan l-Att hu biex jistabilixxi u jikkonsolida l-protezzjoni u l-benesseri tal-annimali miżmuma għal skopijiet ta' xogħol, sport, spetaklu, skopijiet kummerċjali, wens, ikel, konservazzjoni, edukazzjoni, bħala kollezzjonijiet privati, raġunijiet mediċi u esperimentazzjoni."

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) it-tifsira "ċirklu" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "ċirklu" tfisser wirja mtella' minn esebituri għall-

profitt, u meqjusa mill-pubbliku għad-divertiment li joffri gost u spetaklu, u fejn l-annimali jwettqu *tricks* jew manuvri, li ma jirriflettux l-imġiba naturali tagħhom jew li ma joffru l-ebda valur edukattiv;" u

(b) it-tifsira "torbot" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "torbot" tfisser li trazzan annimal billi torbtu ma' kwalunkwe oġġett jew struttura stazzjonarja, bi kwalunkwe mezz, inkluż imma mhux limitat biss għal katina, ħabel, korda, ċinga, taljola jew cable run, iżda ma tinkludix l-użu ta' ċinga meta persuna tmexxi annimal domestiku f'post pubbliku;"

Emenda tal-artikolu 4 tal-Att prinċipali.

4. Minnufih wara s-subartikolu (10) tal-artikolu 4 tal-Att prinċipali għandu jiżdied is-subartikolu ġdid li ġej:

"(11) L-ebda persuna ma għandha tikkwalifika biex tkun membru tal-Kunsill għat-Trattament Xieraq tal-Annimali jekk tali persuna:

(a) tkun Membru tal-Kamra;

(b) tkun qed isservi bħala mħallef jew maġistrat;

(c) tkun legalment inabilitata jew interdetta;

(d) hija falluta mhux riabilitata, billi tkun ġiet dikjarata falluta b'sentenza jew xort'oħra dikjarata falluta skont xi liġi li tkun fis-seħħ f'Malta, jew li tkun għamlet xi akkordju mal-kredituri tagħha;

(e) hija interdetta jew inabilitata minħabba xi mard mentali jew minħabba tberbiq minn qorti f'Malta, jew ikun xort'oħra determinat li tkun persuna b'instabbiltà mentali; jew

(f) tkun instabet haġja ta' reat li jaffettwa l-fiducja pubblika jew serq jew frodi, jew li xjentement irċeviet proprjetà miksuba b'serq jew frodi, jew xi reat kontra dan l-Att u, jew regolamenti magħmula taħtu u, jew tal-Att dwar is-Servizzi Veterinarji u, jew ir-regolamenti magħmula taħtu."

Kap. 437.

Emenda tal-artikolu 8 tal-Att prinċipali.

5. L-artikolu 8 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Il-Ministru jista' jagħmel regolamenti biex jipprovdi għall-mod li bih dawk l-ispeċi ta' annimali kif jista' jiġi preskritt għandhom jiġu mharsa, mitmugħa, ikkurati, misqijin, imdewwa u mharrġa, u l-kwalifiki tal-persuni li għandhom ikunu responsabbli għal dan."; u

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) L-ebda annimal ma għandu jiġi mgieġhel isofri uġiġħ, tbatija jew dwejjaq mingħajr bżonn jew jiġi soġġett għal xi attivitajiet li ma jkunux fin-natura tiegħu. L-ebda annimal ma għandu jiġi abbandunat:

Iżda għall-fini ta' dan is-subartikolu, il-kliem "attivitajiet li ma jkunux fin-natura tiegħu" għandhom jinkludu wkoll attivitajiet ta' natura sesswali bejn persuna u annimal, sew jekk b'xi parti tal-ġisem sew jekk b'xi oġġett, sakemm dak l-oġġett ma jkunx użat għal intervent mediku jew għal skopijiet mediċi."

6. Minnufih wara l-artikolu 31F tal-Att prinċipali għandu jizdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid fl-Att prinċipali.

"31G. Id-dispożizzjonijiet taht din it-Taqsima ma għandhomx japplikaw għall-użu ta' annimali bħala props jew extras f'wirjiet artistiki, teatrali, jew ċinematiki, kompetizzjonijiet sportivi jew kwalunkwe attivitajiet oħra li tista' tiġi approvata mid-Direttur għas-Servizzi Veterinarji."

7. Minnufih wara l-artikolu 43 tal-Att prinċipali għandu jizdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid fl-Att prinċipali.

"Klieb perikolużi.

43A. Il-Ministru jista' jagħmel regolamenti sabiex jipprovdi lista ta' ċertu razez ta' klieb li huma kkunsidrati bħala perikolużi nkluż il-mod ta' kif dawn ir-razez ta' klieb għandhom jiġu regolati."

8. L-artikolu 44A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 44A tal-Att prinċipali.

(a) il-paragrafu (f) tas-subartikolu (2) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(f) jirrevedi u jinvestiga, jew minn jeddu jew wara li jirċievi ilment, il-funzjonijiet u l-ħidmiet tad-Direttorat tas-Servizzi Veterinarji, jew tad-Direttorat responsabbli għat-Trattament Xieraq tal-Annimali"; u

(b) il-paragrafu (f) tas-subartikolu (3) tiegħu għandu jiġi

sostitwit bil-paragrafu ġdid li ġej:

Kap. 437. "(f) tkun instabet hatja ta' reat li jaffettwa l-fiduċja pubblika jew serq jew frodi, jew li xjentement irċeviet proprjetà miksuba b'serq jew frodi, jew xi reat kontra dan l-Att u, jew regolamenti magħmula tahtu jew kontra l-Att dwar is-Servizzi Veterinarji jew regolamenti magħmula tahtu.".

Emenda tal-artikolu 44B tal-Att prinċipali.

9. L-artikolu 44B tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (a) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(a) tidhol f'kull post, sew jekk pubbliku sew jekk privat, f'kull hin, u f'każ ta' dar ta' abitazzjoni wara li jingħata preavviż ta' mill-inqas erbgħa u għoxrin (24) siegħa, sabiex tispezzjona, tidentifika u tinvestiga kull reat taht dan l-Att li jkun sar jew li jista' jkun ser isir, tigbor evidenza u, bla ħsara għall-ġeneralità tas-setgħat biex teżamina taht dan l-Att, dawn il-persuni għandu jkollhom is-setgħa li jeżaminaw kull animal, ikel, medicina, struttura, sistema ta' żamma tal-animali, għeluq, vettura, stazzjon, dokument, tagħmir jew laboratorju. Kull persuna li tidhol f'kull post skont dan is-subartikolu għandha tippreżenta l-awtorità jew l-identità tagħha qabel jew meta tidhol f'dawk il-postijiet:

Iżda l-preavviż ta' erbgħa u għoxrin (24) siegħa sabiex tidhol f'dar ta' abitazzjoni ma għandux japplika meta d-Direttur innifsu, u mhux kwalunkwe uffiċjal ieħor li jkun qiegħed jaġixxi taht l-awtorità mogħtija lilu, ikollu suspett raġonevoli fuq bażi ta' evidenza sostanzjali, li twettaq reat taht l-Att jew ir-regolamenti magħmula tahtu jew li ser jiġi mwettaq:

Iżda wkoll f'każ li s-sid ta' proprjetà privata jew kwalunkwe post ieħor ma jkunx jista' jiġi identifikat jew ma jkunx jista' jinstab minkejja sforzi raġonevoli, l-uffiċjal jista' jidhol permezz tal-forza u mingħajr il-kunsens jew twissija minn qabel tas-sid tal-imsemmija proprjetà privata, bil-għan li jassisti, jgħin u jieħu ħsieb animal li jinsab f'diffikultà u li ħajtu jew saħħtu, fid-diskrezzjoni tad-Direttur, tkun f'periklu serju."; u

(ii) is-subparagrafu (ii) tal-paragrafu (b) tiegħu għandu jiġi sostitwit bis-subparagrafu ġdid li ġej:

"(ii) tikkonfiska kull tagħmir, mediċina, prodott tal-annimali, tagħmir, strument, u, jew apparat elettroniku li fil-fehma tagħha jkunu ntużaw fit-twettiq ta' dak ir-reat jew li dwarhom temmen li jkun twettaq dak ir-reat jew li jkunu riżultat ta' xi reat taħt dan l-Att jew kwalunkwe regolamenti taħt dan l-Att."; u

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Għall-finijiet tat-twettiq ta' kwalunkwe funzjoni taħt dan l-Att, id-Direttur tas-Servizzi Veterinarji, id-Direttur għat-Trattament Xieraq tal-Annimali, uffiċjali għall-ħarsien xieraq tal-annimali jew kull uffiċjal jew persuna oħra kif tista' tkun awtorizzata mid-Direttur tas-Servizzi Veterinarji jew mid-Direttur għat-Trattament Xieraq tal-Annimali, tista' titlob l-assistenza tal-Korp tal-Pulizija ta' Malta, kull kunsill lokali, kull għaqda volontarja jew għaqda mis-settur privat, u kull dipartiment tal-Gvern jew kull aġenzija tal-Gvern."

10. L-artikolu 45 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 45 tal-Att prinċipali.

(a) il-proviso għall-paragrafu (b) tas-subartikolu (1) tal-artikolu 45 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Izda meta persuna tinstab haġja ta' ksur tad-dispożizzjonijiet ta' dan l-Att jew tar-regolamenti magħmula taħtu li jkun jikkonsisti f'moħqrija tal-annimali, il-qorti tista' meta tqis li jkun xieraq, b'żieda mal-piena, tipprojbixxi lill-persuna misjuba haġja milli żżomm annimali jew milli tirrisjedi f'post fejn jinżammu annimali għal dak iż-żmien li jista' jkun stabbilit mill-Qorti:

Izda wkoll il-Qorti fuq it-talba tal-prosekuzzjoni, tista' toħroġ digriet waqt il-kors tal-proċedimenti, jekk tkun sodisfatta illi hemm evidenza *prima facie* għall-ħruġ tad-digriet kontra dik il-persuna akkużata bi ksur tad-dispożizzjonijiet ta' dan l-Att jew tar-regolamenti magħmula taħtu, li jkun jikkonsisti f'moħqrija tal-annimali sabiex tipprojbixxi lill-akkużat milli jżomm annimali sakemm is-sentenza tkun għaddiet f'gudikat:

Iżda wkoll il-Kummissarju għat-Trattament Xieraq tal-Annimali għandu jżomm internament regjistru msejjaħ "Persuni mixlija b'reati kontra l-Att dwar it-Trattament Xieraq tal-Annimali u r-regolamenti magħmula tahtu" li fih jitniżżel l-isem ta' kull persuna haġta mill-Qorti ta' ksur tad-dispożizzjonijiet ta' dan l-Att jew kwalunkwe regolamenti magħmula tahtu u fejn jiġi dikjarat mill-Qorti illi l-hati għandu jiġi pprojbit milli jżomm annimali għal dak iż-żmien li jista' jiġi stabbilit mill-Qorti. Kopja awtentika tas-sentenza rilevanti jew digriet tal-Qorti, għandha wkoll tinzamm fir-regjistru."; u

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (1), kull persuna li tinstab haġta ta' reat taht dan l-Att jew kwalunkwe regolamenti magħmula tahtu tista', flimkien mal-pieni preskritti taht l-aħħar subartikolu, tkun ordnata mill-Qorti li thallas kwalunkwe ispejjeż imġarrba għat-trattament, rilokazzjoni jew konfiska ta' annimali minn kull post f'Malta, ir-revoka ta' kull permess maħruġ għall-operat ta' kull attività regolata taht dan l-Att u, jew ir-regolamenti magħmula tahtu u għal spejjeż oħra raġonevoli kif il-Qorti jista' jidhrilha xieraq."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jipprovdu għal aktar miżuri adegwati sabiex jiġi salvagwardjat it-trattament xieraq tal-annimali u sabiex jiġu indirizzati d-diversi aspetti illi ma kinux aġġornati.

**A BILL
entitled**

AN ACT to amend the Animal Welfare Act, Cap. 439.

BE IT ENACTED by the President, by and with the advice and consent to the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the Animal Welfare (Amendment) Act, 2022 and this Act shall be read and construed as one with the Animal Welfare Act, hereinafter referred to as "the principal Act".

Short title and commencement.
Cap. 439.

(2) This Act shall come into force within two (2) months from its publication in the Gazette.

2. Article 1 of the principal Act shall be substituted by the following new article:

Substitution of article 1 of the principal Act.

"Short title and scope.

1. (1) The short title of this Act is the Animal Welfare Act.

(2) The scope of this Act is to establish and consolidate the protection and well-being of animals kept for work, sports, shows, commercial reasons, companionship, food, conservation, education, as private collections, medical reasons and experimentation."

3. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) the definition "circus" shall be substituted by the following new definition:

" "circus" means any exhibition put on by exhibitors for profit, and viewed by the public for entertainment which offers amusement and display, and where animals are made to perform tricks or manoeuvres, which do not

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reflect their natural behaviour or does not offer any educational value;"; and

(b) the definition "tether" shall be substituted by the following new definition:

" "tether" means to restrain an animal by tying it to any stationary object or structure, by any means, including but not limited to a chain, rope, cord, leash, pulley or cable run, but shall not include the use of a leash when walking a domestic animal in a public place;".

Amendment of article 4 of the principal Act.

4. Immediately after sub-article (10) of article 4 of the principal Act there shall be added the following new sub-article:

"(11) No person shall be qualified to be a member of the Council for Animal Welfare if such person:

- (a) is a Member of the House;
- (b) is serving as a judge or magistrate;
- (c) is legally incapacitated or interdicted;

(d) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Malta, or has made composition or arrangement with his creditors;

(e) is interdicted or incapacitated for any mental infirmity or for prodigality by a court in Malta, or is otherwise determined to be of unsound mind; or

(f) has been convicted of a crime affecting public trust or theft or fraud, or of knowingly receiving property obtained by theft or fraud, or an offence against this Act and, or regulations made thereunder and, or an offence against the Veterinary Services Act and, or regulations made thereunder.".

Cap. 437.

Amendment of article 8 of the principal Act.

5. Article 8 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) The Minister may make regulations providing for the manner in which such species of animals as may be prescribed shall be cared for, fed, medicated, watered, treated and trained, and the qualifications of persons who shall be responsible thereof."; and

(b) sub-article (2) thereof shall be substituted by the

following new sub-article:

"(2) No animal shall be caused any unnecessary pain, suffering or distress or subjected to any activities which are not in his nature. No animal shall be abandoned:

Provided that for the purposes of this sub-article, the words "activities which are not in their nature" shall also include activities of a sexual nature between a person and an animal, whether by any part of the body or by any object, unless that object is used for medical intervention and medical purposes."

6. Immediately after article 31F of the principal Act there shall be added the following new article: Addition of new article to the principal Act.

"31G. The provisions of this Part shall not apply to the use of animals as props or extras in artistic, theatrical, or cinematic performances, sporting competitions or any other events which may be approved by the Director for Veterinary Services."

7. Immediately after article 43 of the principal Act there shall be added the following new article: Addition of new article to the principal Act.

"Dangerous dogs. 43A. The Minister may make regulations providing for a list of certain dog breeds which are considered to be dangerous including the manner in which such dog breeds are to be regulated."

8. Article 44A of the principal Act shall be amended as follows: Amendment of article 44A of the principal Act.

(a) paragraph (f) of sub-article (2) thereof shall be substituted by the following new paragraph:

"(f) review and investigate, either out of his own motion or following a complaint received by him, the functions and workings of the Directorate of Veterinary Services, or the Directorate responsible for Animal Welfare;" and

(b) paragraph (f) of sub-article (3) thereof shall be substituted by the following new paragraph:

"(f) has been convicted of a crime affecting public trust or theft or fraud, or of knowingly receiving property obtained by theft or fraud, or an offence against this Act and, or regulations made thereunder and the Veterinary Services Act and, or regulations made thereunder."

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Amendment of
article 44B of
the principal
Act.

9. Article 44B of the principal Act shall be amended as follows:

(a) sub-article 1 thereof shall be amended as follows:

(i) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) enter any premises, public or private, at all times, and in the case of a dwelling house after giving reasonable notice of at least twenty-four (24) hours, to inspect, detect and investigate any offence under this Act which has been or is likely to be committed, to collect evidence and, without prejudice to the generality of the powers to examine under this Act, such persons shall have the power to examine any animal, food, feed, medicine, structure, animal housing system, enclosure, vehicle, station, documents, equipment or laboratory. Any person entering any premises in pursuance to this sub-article shall produce his authority or his identity prior to or upon entering such premises:

Provided that the twenty-four (24) hours notice to enter into a dwelling house shall not be applicable if the Director himself and not any other official acting under his delegated authority, considers that there is reasonable suspicion, on the basis of substantiated grounds, that an offence under the Act or the regulations made thereunder has been committed or is about to be committed:

Provided further that in the event that the owner of a private property or any other premises cannot be identified or cannot be identified despite reasonable efforts, the officer may enter by means of force and without the consent or prior warning of the owner of said private property, for the purposes of assisting, attending to, and caring for an animal who is in distress and whose life or health, in the discretion of the Director, is in serious jeopardy;" and

(ii) sub-paragraph (ii) of paragraph (b) thereof shall be substituted by the following new sub-paragraph:

"(ii) seize any equipment, medicine, animal product, gear, instrument and, or appliance which he believes have been used in the commission of such offence or in respect of which he believes such offence has been committed or that is the result of an offence under this Act or any regulations under this

Act"; and

(b) sub-article (2) thereof shall be substituted by the following sub-article:

"(2) For the purpose of performance of any function under this Act, the Director for Veterinary Services, Director for Animal Welfare, animal welfare officers or any other such officer or person as may be authorised by the Director for Veterinary Services or Director for Animal Welfare may request the assistance of the Malta Police Force, any local council, any voluntary organisation or private sector, any department of Government or any government agency."

10. Article 45 of the principal Act shall be amended as follows:

Amendment of article 45 of the principal Act.

(a) the proviso to paragraph (b) of sub-article (1) thereof shall be substituted by the following:

"Provided that when a person is found guilty of a breach of the provisions of this Act or the regulations made thereunder consisting of ill-treatment of animals, the Court may when it deems it to be appropriate, in addition to the punishment, prohibit the person found guilty from keeping animals or from residing in a place where animals are kept for such period as the Court may determine:

Provided further that the Court, upon the request of the prosecution, may issue a court decree during the course of proceedings if it is satisfied that there is *prima facie* evidence for the issue of the court order against a person charged with a breach of the provisions of this Act or any of the regulations made thereunder consisting of ill-treatment of animals in order to prohibit that person from keeping animals until the judgment becomes *res judicata*:

Provided further that the Commissioner for Animal Welfare shall maintain an internal register called the "Offenders of the Animal Welfare Act and its Regulations" within which there shall be noted down the name of any convicted person by the Court of a breach of the provisions of this Act or any of the regulations made thereunder and where it is declared by the Court that the convict shall be prohibited from keeping animals for such period as the Court may determine. An authentic copy of the relevant judgment or court decree, shall also be kept in the register."; and

(b) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) Without prejudice to the provisions of sub-article (1), any person found guilty of committing an offence under this Act or any of the regulations made thereunder shall, in addition to the punishments prescribed under the last foregoing sub-article, be ordered by the Court to pay for any expenses incurred for the treatment, relocation or forfeiture of animals from any place in Malta, the revocation of any permits issued for the operation of any activity regulated under this Act and, or the regulations made thereunder and for other reasonable expenses as the Court may deem fit."

Objects and Reasons

The objects and reasons of this Bill are to provide for further adequate measures in order to safeguard animal welfare and to address the various aspects which presently were not updated.

VERŻJONI ELETTRONIKA