



WHITE PAPER
ON

**PROPOSED AMENDMENTS
TO THE ANIMAL WELFARE ACT, 2001**

CHAPTER 439 OF THE LAWS OF MALTA

MARCH 2014

1. INTRODUCTION

Animal welfare is the concept where the physical and psychological well-being of animals is kept in a good state by their keepers. Ensuring animal welfare is a human responsibility and may be assessed on the basis of health, nourishment, safety and the ability of express innate behaviour. In addition good animal welfare requires veterinary check-ups and treatment, appropriate shelter, management and the humane slaughter or euthanasia.

In the past decade Animal welfare has been given significant prominence, mainly through the enactment of the Animal Welfare Act, 2001 (Chapter 439 of the Laws of Malta), strengthening of the role of non-governmental organisations advocating for animal welfare and generally by promoting awareness on animal welfare issues through information campaigns and dissemination of information. The Ministry for Sustainable Development, the Environment and Climate Change in conjunction with the Parliamentary Secretary for Agriculture, Fisheries and Animal Rights embarked on a review of existing national legislation concerning animal welfare with the scope of introducing the following provisions:

- establishing the office of the Commissioner for Animal Welfare;
- strengthening the role of the Animal Welfare Council and non-governmental organisations,
- strengthening and clarifying the functions of the Animal Welfare Director;
- establishing the enforcement powers of animal welfare officers;
- for a ban on the introduction and use of animals in circuses;
- increasing penalties associated with infringements of animal welfare legislation

2. PROPOSED PROVISIONS

2.1 APPOINTMENT OF COMMISSIONER FOR ANIMAL WELFARE

Government, in line with its political commitment, is recommending the appointment of a Commissioner for Animal Welfare. This is considered as a significant commitment by the Government towards projecting a higher deserved status to animal welfare issues and matters related thereto. The remit of the Commissioner for Animal Welfare is laid out in article 44A of the proposed amendments and shall include promotion and implementation on educational campaigns for the protection of animals, promotion of compliance with the Animal Welfare Act, enhancement of cooperation between entities and persons advocating for animal welfare and the formulation of recommendations for the implementation of matters touching upon animal welfare. The proposed amendments will also empower the Commissioner to review and investigate the workings of the Animal Welfare Council and of the Directorate for Animal Welfare and Veterinary Services. The outcome of these investigations shall ultimately culminate in the publication of reports and recommendations.

2.2 STRENGTHENING THE ROLE OF THE ANIMAL WELFARE COUNCIL

Pursuant to consultations with stakeholders, non-governmental organisations and the Animal Welfare Council¹, it is considered opportune to implement legislative amendments with the scope of strengthening the role and functions of the Council and to enhance representation from a wide range of sectors.

Currently, article 4 of the Animal Welfare Act provides that the Director of Veterinary Services, or in his absence, the most senior member of the Council, shall occupy the office of the Chairman of the Council. By virtue of the proposed amendments to the Animal Welfare Act, the Chairman shall be appointed by the Prime Minister after consultation with the Minister responsible for animal welfare. The scope of the appointment of the Chairman is to principally assist with the development of the strategic role of the Council within the Maltese society and promote debate within the Council.

Moreover the Council will have an increment of an additional member representing NGOs and animal welfare groups. As a result, the composition as proposed in this White Paper will constitute three members representing the interests of NGOs and groups advocating for animal welfare rights with the objective of increasing representation and drawing on the experiences of the individuals working hands-on in the voluntary sector.

Since the current composition appears to omit representation of veterinary surgeons in the private practice, who ultimately provide an invaluable role within the animal welfare sector, the Ministry recommends that the proposed legislation provides for the appointment of a veterinary surgeon

¹ Hereinafter referred to as the “Council”.

with experience in private practice on small animals. The veterinary surgeon will be appointed after consultation with bodies representing veterinaries in private practice. In addition to the aforementioned new members, the Ministry also considers essential that the Director for Animal Welfare be appointed as a member of the Council.

2.3 STRENGTHENING AND CLARIFYING FUNCTIONS OF THE ANIMAL WELFARE DIRECTOR

In order to strengthen the regulatory role of the Animal Welfare Directorate, the amendments provide for certain functions and responsibilities that are also vested within the Animal Welfare Director.

2.4 STRENGTHENING THE ROLE OF ANIMAL WELFARE OFFICERS

The role and operations of animal welfare officers is considered as critical to ensure compliance with legislation regulating animal welfare, thus translating the obligations emanating from animal welfare legislation into practice. Animal welfare officers act as contact points between the general public and the authorities, provide guidance to general public and ensure that specific animal welfare legislation is complied with. However, pursuant to assessments carried out by the Ministry it was noted that the current legal regime does not necessarily address the authorities and powers required to enforce the law. Animal welfare officers must be duly mandated to exercise functions and authorities necessary for the performance of an officer appointed to safeguard animal welfare, especially in rescue scenarios.

In this respect, the proposed legislation introduces a new Part XIII A to the Animal Welfare Act establishing enforcement powers which amongst others include the right of entry and search, right of seizure of animals in the event of ill treatment, right to carry out inspections and take samples.

2.5 THE USE OF ANIMALS IN CIRCUSES

EXISTING MALTESE ANIMAL WELFARE LEGISLATION REGULATING ANIMALS IN CIRCUSES

The Animal Welfare Act (2001), Chapter 439 of the Laws of Malta is the main body of legislation regulating the use of wild animals in circuses permanently resident or visiting Malta. The Animal Welfare Act is generic in nature and applies to all species of animals as defined in article 2 of the same Act. Particular aspects of animal welfare have been addressed in sixteen regulations enacted under the principal Act. Regulations focus *inter alia* on the transportation of animals, animal slaughter, protection of animals and the keeping of wild animals in zoos. However, due to the generic nature of the Animal Welfare Act, the welfare and use of circus animals are not specifically addressed, but nonetheless fall within the parameters of the current legal regime. The proposed legislation will serve the purpose of supplementing and, where required, addressing welfare of animals used or intended to be used in circuses.

OFFENCES AND PENALTIES UNDER THE CURRENT LEGAL REGIME

The general offences and penalties provisions of the Animal Welfare Act contemplate a maximum fine (*multa*) of not more than thirty thousand euro (€30,000) and/or a term of imprisonment for a period not exceeding one year for first time offenders found guilty of animal cruelty or ill treatment. Second time offenders or persons found guilty of subsequent convictions under the Animal Welfare Act may be held liable to a fine (*multa*) of not less than four thousand euro (€4,000) but not exceeding fifty thousand euro (€50,000) and/or to a term of imprisonment not exceeding one year.

REGULATION OF CIRCUSES IN THE MALTESE ISLANDS

Generally, circuses visiting the Maltese Islands would be en route from mainland Europe, particularly from Italy. Circuses employing animals in performances and exhibitions would require a permit granted by the Director of Veterinary Services to allow movement of animals into the Maltese Islands and inspections are carried out as soon as reasonably possible upon arrival of the circus animals in Malta or Gozo. Officers of the Veterinary Services are also responsible for the vetting of the relevant certificates confirming *inter alia* that the circus animals are in good health. Additional regular inspections are carried out by the officers of the Veterinary Services and of the Animal Welfare Departments. Inspections include visits to the site where a circus is set up or at the location where circus animals are kept.

Circus operators or promoters need also apply for requisite permits from the Commissioner of Police, the Malta Environment and Planning Authority and the local council, to enable the circus to be set up and to operate from a particular town or village in Malta or Gozo.

PROPOSED PROVISIONS

In view of possible differing opinions, the Parliamentary Secretary for Agriculture, Fisheries and Animal Rights deemed it fit to launch a consultation process on the proposed prohibition of the use of animals in circuses. The general public, NGOs and stakeholders, including circus promoters, were invited to participate in a consultation process that ran for two weeks starting from the 8th of July 2013. As part of the consultation process, the Secretariat for Agriculture, Fisheries and Animal Rights published a Consultation Response Form containing consultation questions and also provided space for the general public to submit comments on the subject. The Consultation Response Form was also made available online and an *ad hoc* email address was set up to facilitate submissions of the forms and comments. A number of meetings were also held with interested parties, including non-governmental organisations (NGOs) and local circus promoters to discuss the various issues arising from the use of animals in circuses and the repercussions of a proposed outright ban on all species of animals.

From the feedback received from interested stakeholders and the general public the majority were in favour of a ban on the use of wild animals in circuses, also proposing that such a ban should cover all species of animals (both wild and domesticated). Respondents in favour of the use of wild animals disagreed with the introduction of a ban and contended that current legislation and vigilance by the local enforcement authorities ensure compliance with the requisite animal welfare standards of the animals used in circuses visiting Malta.

Pursuant to the consultation process, it is clear that there is strong support for the introduction of legislation prohibiting the use of animals for entertainment in circuses travelling or set up in Malta. In view of the responses, Government is proposing the introduction of a ban on the use of all species of animals in circuses, whether a circus is a travelling circus or permanently established in Malta.

The ban on the use of all species of animals, both wild and domestic, is proposed to be introduced by virtue of the addition of a new part to the Animal Welfare Act, Part XIA entitled 'Circuses', which shall introduce a ban on the use of animals in circuses. The proposed provisions will also create a restriction on the promotion or advertisement of circuses in Malta. Furthermore, the new provisions that shall be incorporated in the principal Act shall render infringements to the ban as an offence subject to a fine (*multa*) and allow for the seizure of animals used or intended to be used in circuses.

2.6. PENALTIES

As highlighted above, the maximum penalty contemplated in the Animal Welfare Act is thirty thousand euro (€30,000) for first time offenders found guilty of animal cruelty or ill treatment, whereas a maximum fine of fifty thousand euro (€50,000) may be imposed on second time offenders. The current Animal Welfare Act, article 45, provides for a maximum term of imprisonment of one year.

The White Paper is proposing an increase in the penalties and prison terms currently provided for in the Animal Welfare Act to render them more meaningful as a deterrent. The degree of harm, ill treatment and gravity of the offence shall be the main factors in the determination of the quantum of the fine and/or prison terms. Such approach appears to draw the support of the general public and also elevates the importance of animal welfare in the Maltese society and culture.

It is thus being recommended that on first conviction, the fine (*multa*) shall range from one thousand euro (€1,000) to fifty five thousand euro (€55,000) and/or a term of imprisonment for a period of three years. On second conviction, offenders shall be liable to a fine ranging between five thousand euro (€5,000) to eighty thousand euro (€80,000) and/or imprisonment to a term not exceeding three years.

In addition to the aforementioned proposed increments to fines and imprisonment terms, the draft proposals also provide for the revocation of licences, permits or authorisations that may be issued under the Animal Welfare Act or any regulations enacted thereunder. Notably, the proposed amendments contemplate for the possibility of a competent court to revoke any permits issued for the operation of a regulated activity in the event a person is found guilty of an offence under the Animal Welfare Act.

3. PUBLIC CONSULTATION

The Ministry for Sustainable Development, the Environment and Climate Change together with the Parliamentary Secretariat for Agriculture, Fisheries and Animal Welfare is proposing the publication of the draft amendments for pre-legislative scrutiny before the new articles are formally introduced to Parliament. This approach is being adopted to improve the scrutiny of the bill pursuant to the public consultation process on the introduction of a ban on the use of animals in circuses and to draw the public more effectively into the legislative process on animal welfare issues.

All interested stakeholders and the general public are invited to comment on the proposed revisions to the Animal Welfare Act of 2001. Feedback is required by 11th April 2014 and should be forwarded to: awconsultation.msdec@gov.mt

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