

Animals and Birds (Amendment) Bill

Bill No. 40/2014.

Read the first time on 7 October 2014.

A BILL

i n t i t u l e d

An Act to amend the Animals and Birds Act (Chapter 7 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Animals and Birds (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 2**

2. The Animals and Birds Act (referred to in this Act as the principal Act) is amended by renumbering section 2 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

10 “(2) Nothing in this Act affects a police officer’s powers or duties under the Criminal Procedure Code (Cap. 68).”.

Amendment of heading of Part IV

3. Part IV of the principal Act is amended by inserting, immediately before the word “PREVENTION” in the Part heading, the words
15 “ANIMAL WELFARE AND”.

Repeal and re-enactment of section 41 and new sections 41A, 41B and 41C

4. Section 41 of the principal Act is repealed and the following sections substituted therefor:

20 **“Interpretation of this Part**

41. In this Part, unless the context otherwise requires —

“animal” includes any beast, bird, fish or reptile, whether wild or tame;

“animal-related business” means —

25 (a) the operation of any place or establishment for the purpose of —

(i) using or holding animals for display, sport, entertainment, sale, breeding or conservation; or

(ii) the care, boarding, grooming, treatment, vaccination, inoculation, training or destruction of animals, for reward;

(b) the provision of any service relating to the care, boarding, grooming, treatment, vaccination, inoculation, training, transportation, capture or destruction of animals, for reward; or 5

(c) the operation of any animal rescue or welfare organisation or facility,

but does not include any business in respect of animals intended for consumption; 10

“code of animal welfare” means any code of animal welfare issued, adopted or amended by the Director-General and in force under section 41A;

“owner”, in relation to an animal, includes a person in charge of the animal; 15

“person in charge”, in relation to an animal, means a person who has, whether permanently or on a temporary basis, the animal in the person’s possession, custody or control, or under the person’s care or supervision, and includes an individual who has the animal in such a manner in the course of the individual’s employment; 20

“reward” means any payment or other benefit (whether monetary or otherwise).

Codes of animal welfare 25

41A.—(1) The Director-General may, from time to time, for the purposes of this Part —

(a) issue one or more codes of animal welfare;

(b) adopt as a code of animal welfare, with or without any modification, any document (or any part of such document) prepared by any person in or outside Singapore; or 30

- (c) amend or revoke any code of animal welfare issued or adopted under this subsection,

with respect to the standards of care to be provided or observed in respect of any animal or class of animals.

5 (2) Upon issuing, adopting, amending or revoking a code of animal welfare under subsection (1), the Director-General must —

10 (a) publish a notice of the issue, adoption, amendment or revocation, as the case may be, in such manner as will secure adequate publicity for such issue, adoption, amendment or revocation;

(b) specify the date of the issue, adoption, amendment or revocation, as the case may be, in the notice; and

15 (c) ensure that the code of animal welfare (including any amendment made to the code of animal welfare) remains available for access or inspection without charge by the public.

20 (3) Any issue, adoption, amendment or revocation of a code of animal welfare under subsection (1) does not have any force or effect until the notice relating to it has been published in accordance with subsection (2)(a) and (b).

25 (4) If any provision of any code of animal welfare in force under this section is inconsistent with any provision of this Act or any rule made under this Act, the provision in the code of animal welfare does not, to the extent of the inconsistency, have effect.

30 (5) The Director-General may, either generally or for such time as the Director-General may specify, waive the application of any code of animal welfare (or any part of such code) issued, adopted or amended under this section to any animal owner or class of animal owners, or in respect of any animal or class of animals.

(6) Any code of animal welfare issued under this section shall be deemed not to be subsidiary legislation.

Use of codes of animal welfare in proceedings

41B.—(1) A person shall not be liable to any criminal proceedings by reason only that the person has failed to observe any provision of a code of animal welfare.

(2) In any criminal proceedings, any party to the proceedings may rely upon — 5

(a) the failure of a person to comply with a provision of a code of animal welfare which applies to that person; or

(b) that person’s compliance with that provision,

as tending to establish or negate any liability which is in question in the proceedings. 10

Duty of care of animal owners

41C.—(1) Every owner of an animal —

(a) must take reasonable steps to ensure that —

(i) the animal is provided with adequate and suitable food and water, taking into account its dietary needs; 15

(ii) the animal is provided with adequate shelter;

(iii) the animal is not kept in confinement, conveyed, lifted, carried or handled in a manner or position that subjects the animal to unreasonable or unnecessary pain or suffering; and 20

(iv) the animal is protected from, and rapidly diagnosed of, any significant injury or disease;

(b) must not abandon the animal, or cause or permit the animal to be abandoned, whether permanently or temporarily, without reasonable cause or excuse; 25

(c) in the case where the animal is missing, must make reasonable efforts to recover the animal; and

(d) must take reasonable steps to ensure that the animal is cared for in accordance with the codes of animal welfare applicable to the animal. 30

(2) Any person who fails to comply with subsection (1)(a), (b) or (c) shall be guilty of an offence.

(3) A person who is guilty of an offence under subsection (2) shall be liable on conviction —

5 (a) in the case where the person commits the offence in the course of carrying on, or employment or purported employment with, an animal-related business —

(i) for a first offence, to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding
10 2 years or to both; and

(ii) for a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) in any other case —

15 (i) for a first offence, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; and

(ii) for a second or subsequent offence, to a fine not exceeding \$20,000 or to imprisonment for a term
20 not exceeding 2 years or to both.

(4) For the purpose of subsection (3), a person is a repeat offender if the person who is convicted, or found guilty, of an offence under subsection (2) has (whether before, on or after the date of commencement of section 4 of the Animals and Birds (Amendment) Act 2014) been convicted or found guilty on at
25 least one other earlier occasion of an offence under section 42(1)(f) in force immediately before that date.

(5) In this section, “employment”, in relation to an animal-related business, includes the holding of the office, or purporting to act in the capacity, of a director, manager, partner, secretary or
30 other analogous position in the animal-related business.”.

Amendment of section 42

5. Section 42 of the principal Act is amended —

- (a) by deleting paragraphs (c), (e) and (f) of subsection (1);
- (b) by deleting the words “and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; except where an owner is convicted of having permitted cruelty to an animal under subsection (2), he shall be liable to a fine not exceeding \$10,000” in subsection (1); and 5
- (c) by inserting, immediately after subsection (3), the following subsections: 10
 - “(4) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
 - (a) in the case where the person commits the offence in the course of carrying on, or employment or purported employment with, an animal-related business — 15
 - (i) for a first offence, to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 2 years or to both; and 20
 - (ii) for a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both; and
 - (b) in any other case — 25
 - (i) for a first offence, to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 18 months or to both; and
 - (ii) for a second or subsequent offence, to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both. 30

(5) In this section, “employment”, in relation to an animal-related business, includes the holding of the office, or purporting to act in the capacity, of a director, manager, partner, secretary or other analogous position in the animal-related business.”.

Repeal of section 43 and new sections 43, 43A and 43B

6. Section 43 of the principal Act is repealed and the following sections substituted therefor:

“Prescribed activities and services to be performed by qualified individuals

43.—(1) A person carrying on any prescribed animal-related business must not employ or engage any individual to perform any prescribed activity or service, or prescribed class of activities or services, relating to the ownership of an animal or class of animals unless the individual holds such qualifications or has completed such training as the Director-General may specify.

(2) The Director-General must publish on a prescribed website the Director-General’s specifications on qualifications and training under subsection (1).

(3) Any person carrying on a prescribed animal-related business who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Power to issue directions

43A.—(1) The Director-General may in any particular case issue to the owner of an animal such directions as the Director-General considers necessary to ensure that —

(a) the welfare of the animal is safeguarded; or

(b) the provisions of this Part are complied with,

and the owner must comply with the directions.

(2) Any person who fails, without reasonable excuse, to comply with any direction issued to the person under subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case where the person commits the offence in the course of carrying on, or employment or purported employment with, an animal-related business, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and 5
- (b) in any other case, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both. 10

(3) In this section, “employment”, in relation to an animal-related business, includes the holding of the office, or purporting to act in the capacity, of a director, manager, partner, secretary or other analogous position in the animal-related business. 15

Disqualification orders

43B.—(1) Where a person is convicted of an offence under section 41C(2), 42(1) or 43(3), the court before which the person is convicted of that offence may, in addition to the punishment provided for that offence — 20

- (a) in the case where the person commits the offence in the course of carrying on, or employment or purported employment with, an animal-related business, disqualify the person from — 25
 - (i) carrying on any animal-related business or class of animal-related businesses; or
 - (ii) being a person in charge of any animal or class of animals in the course of any employment with any animal-related business; and 30
- (b) in any other case, disqualify the person from owning any animal or any class of animals,

for a period not exceeding 12 months starting on such date as the court may specify.

(2) Where a court makes a disqualification order against a person under subsection (1), the court may make such order as it thinks fit for the disposal of any animal owned by the person at the time of the making or start of the disqualification order.

5 (3) Any person who contravenes a disqualification order made against the person under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

10 (4) Any person carrying on the business of an animal-related business who, knowingly or with reckless disregard, employs any individual in any capacity that is prohibited by a disqualification order made against that individual under subsection (1)(a)(ii) shall be guilty of an offence and shall be
15 liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(5) In this section, “employment”, in relation to an animal-related business, includes the holding of the office, or purporting to act in the capacity, of a director, manager, partner, secretary or
20 other analogous position in the animal-related business.”.

Amendment of section 44

7. Section 44 of the principal Act is amended by deleting the words “section 42” in subsections (1) and (3) and substituting in each case the words “this Part”.

25 Amendment of section 45

8. Section 45 of the principal Act is amended —

(a) by deleting the words “or person in charge (if any)” in subsection (2); and

(b) by deleting the words “or person in charge” wherever they
30 appear in subsection (3).

Amendment of heading of Part VI

9. Part VI of the principal Act is amended by deleting the Part heading and substituting the following Part heading:

“ENFORCEMENT POWERS”.

Amendment of section 50

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10. Section 50 of the principal Act is amended —

(a) by inserting, immediately after subsection (2), the following subsections:

“(2A) Any authorised officer, police officer or officer of customs acting under subsection (1) may take such photographs or audio or video recordings as necessary of any premises or conveyance referred to in that subsection (including anything in the premises or conveyance).

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(2B) Any authorised officer, police officer or officer of customs may stop and examine in any street or public place any animal in respect of which the officer has reason to believe that an offence under this Act has been or is being committed.”; and

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(b) by deleting the section heading and substituting the following section heading:

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“**Powers of search, etc.**”.

Amendment of section 51

11. Section 51 of the principal Act is amended —

(a) by deleting the word “and” at the end of subsection (1)(a);

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(b) by inserting, immediately after paragraph (a) of subsection (1), the following paragraph:

“(aa) seize any article or conveyance with which or by means of which, the offence is reasonably suspected to have been committed; and”;

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(c) by deleting the words “or article” wherever they appear in subsections (1)(b), (2) and (3) and substituting in each case the words “, article or conveyance”; and

(d) by deleting the section heading and substituting the following section heading:

“Powers of seizure”.

Amendment of section 52

12. Section 52 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(1) An authorised officer, a police officer or an officer of customs may arrest without warrant any person whom the officer reasonably suspects of committing or attempting to commit an offence under this Act.

(1A) The officer making an arrest under this section must not restrain the person arrested more than is necessary to prevent the person’s escape.”; and

(b) by inserting, immediately after subsection (2), the following subsection:

“(2A) A person who is arrested under this section must not be detained in custody for a period longer than is reasonable under the circumstances of the case, and such period must not exceed 48 hours (excluding the time necessary for the journey to a Magistrate’s Court).”.

New section 52A

13. The principal Act is amended by inserting, immediately after section 52, the following section:

“Powers of investigation

52A.—(1) For the purposes of investigating any offence under this Act, an authorised officer, a police officer or an officer of customs may do all or any of the following:

- (a) examine orally any person who appears to be material to the investigation —
- (i) whether before or after that person or anyone else is charged with an offence in connection with the case; and 5
 - (ii) whether or not the person is to be called as a witness in any inquiry, trial or other proceeding in connection with the case;
- (b) issue a written notice requiring any person within the limits of Singapore, who appears to be material to the investigation, to attend before the officer; 10
- (c) require any person who is reasonably believed to have —
- (i) any information; or
 - (ii) any document or article in the person's possession, custody or control, 15
- relevant to the investigation, to furnish that information, or produce that document or article.
- (2) Any person examined under this section shall be bound to state truly what the person knows of the facts and circumstances of the case, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture. 20
- (3) A statement made by any person examined under this section must — 25
- (a) be reduced to writing;
 - (b) be read over to the person;
 - (c) if the person does not understand English, be interpreted for the person in a language that the person understands; and 30
 - (d) after correction (if necessary), be signed by the person.

(4) If any person fails to comply with a written notice issued to the person by an authorised officer, a police officer or an officer of customs under subsection (1)(b), the officer may report such failure to a Magistrate who may then, in the Magistrate's discretion, issue a warrant ordering the person to comply with the written notice.

(5) Subject to subsection (6), an authorised officer, a police officer or an officer of customs may take possession of, or any extract from or copy of, any document or article produced under subsection (1)(c) for further investigation.

(6) Any thing taken possession of by an authorised officer, a police officer or an officer of customs under subsection (5) —

(a) must be placed in safe custody by the officer; and

(b) unless ordered otherwise by a court, may be retained by the officer until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.

(7) Any person who, without reasonable excuse, refuses or fails to comply with any notice issued to the person under subsection (1)(b) or with any requirement made of the person under subsection (1)(c) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.”.

Amendment of section 80

14. Section 80(2) of the principal Act is amended —

(a) by inserting, immediately after paragraph (h), the following paragraph:

“(ha) to provide for the licensing, control, supervision and inspection of places and establishments where animals (as defined in section 41) are or may be boarded for reward;”;

(b) by deleting the word “and” at the end of paragraph (o); and

- (c) by deleting the full-stop at the end of paragraph (p) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(q) to provide for matters relating to the employment or engagement of qualified or trained individuals by persons carrying on animal-related businesses.”.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Animals and Birds Act (Cap. 7) for the following main purposes:

- (a) to mandate a duty of care by owners and persons in charge of animals;
- (b) to require employees of animal-related businesses to be properly trained;
- (c) to raise penalties to increase deterrence;
- (d) to introduce a tiered penalty structure and distinguish penalties between individuals and animal-related businesses; and
- (e) to improve the administration and operation of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to clarify that the powers and duties of a police officer under the Criminal Procedure Code (Cap. 68) are not affected by the Act.

Clause 3 amends the heading of Part IV to include emphasis of ensuring animal welfare beyond prevention of cruelty to animals in the Part.

Clause 4 repeals and re-enacts section 41, and inserts new sections 41A, 41B and 41C —

- (a) to set out under section 41, the interpretation of terms used in Part IV;
- (b) to enable the Director-General, Agri-Food and Veterinary Services (the Director-General) to issue, adopt, amend or revoke codes of animal welfare under section 41A, and to enable compliance or non-compliance to such codes of animal welfare to be relied upon in criminal proceedings to establish or negate any liability in question, but not making failure to comply with the codes an offence under section 41B;
- (c) to require an owner (including a person in charge) of an animal to provide proper care for the animal under section 41C, including providing adequate food, water, shelter, not subjecting the animal to unnecessary

pain or suffering, protecting the animal from significant injury and disease, not abandoning the animal and seeking to recover it if missing, and caring for the animal in accordance with the applicable codes of animal welfare; and

- (d) to set out under section 41C the penalties for failing to provide care for the animal.

Clause 5 amends section 42 to remove mention of those areas that have been shifted to section 41C under duty of care, and to enhance the penalties for committing an act of cruelty to an animal.

Clause 6 repeals section 43 and inserts new sections 43, 43A and 43B —

- (a) to require a person carrying on a prescribed animal-related business to only employ qualified or trained persons to perform any prescribed activity or service in relation to the owning (including being in charge of) an animal under section 43, with the required qualifications and training being specified by the Director-General;
- (b) to empower the Director-General to issue directions under section 43A to ensure that the welfare of the animal is safeguarded or the provisions of Part IV are complied with, and to set out penalties for failure to comply with such directions;
- (c) to enable the court to disqualify a convicted offender under section 43B, from carrying on an animal-related business, being in charge of animals in the course of employment with any animal-related business, or owning an animal, in accordance to the offence committed, and in addition to punishments awarded for the offence;
- (d) to enable the court to decide on the disposal of any animal owned by the convicted offender at the time of making or the start of any disqualification order, which could include animals owned by the convicted offender beyond the subject of offence; and
- (e) to set out the penalties for contravening such a disqualification order.

Clause 7 amends section 44 to expand the ambit to cover all offences under Part IV beyond cruelty offences.

Clause 8 makes a technical amendment to section 45 by removing mention of “person in charge”, as this has now been subsumed within the definition of “owner”.

Clause 9 amends the heading of Part VI to reflect the inclusion under Part VI of powers to examine relevant persons and require them to furnish information, documents or articles. Certain sections (detailed in the clauses below) are also shifted from Part IV to Part VI to apply to the whole Act, for purpose of coherency and consistency, and to enhance the enforcement powers of AVA officers.

Clause 10 amends section 50 —

- (a) to amend the section heading to refer generally to search powers;
- (b) to make explicit enforcement powers of an authorised officer, police officer or officer of customs to be able to take photographs or audio or video recordings as he thinks necessary of any premises or anything within the premises to aid in his investigation of an offence committed or suspected to have been committed under the Act, as well as any conveyance referred to in section 50(1); and
- (c) to shift the current section 43(6) to Part VI to harmonise throughout the whole Act the enforcement power of an authorised officer, police officer or officer of customs to stop and examine an animal in any street or public place.

Clause 11 amends section 51 —

- (a) to amend the section heading to refer generally to seizure powers; and
- (b) to shift the current section 43(1)(c) to Part VI to harmonise throughout the whole Act the enforcement power of an authorised officer, or police officer or officer of customs to seize any conveyance in addition to any article with which or by means of which the offence is reasonably suspected to have been committed.

Clause 12 amends section 52 —

- (a) to empower an authorised officer, police officer or officer of customs to arrest without warrant any person whom he reasonably suspects of committing or attempting to commit an offence under the Act; and
- (b) to make explicit the boundaries of the officer in making the arrest, and set out the boundaries for custody of the detained suspect.

Clause 13 inserts a new section 52A —

- (a) to provide for the powers of an authorised officer, police officer or officer of customs to examine any person who appears material to the investigation and require such person to provide any information, document or article relevant to the investigation;
- (b) to enable a Magistrate's warrant to be issued for any non-compliance with a written notice from the officer requiring the attendance of a person material to the investigation, and set out penalties for non-compliance; and
- (c) to enable the officer to take possession of any document or article relevant to the investigation, and for it to be retained until the completion of any proceedings in which it may be evidence.

Clause 14 amends section 80(2) to provide power for Minister to make rules relating to the licensing of boarding facilities for animals and the employment or engagement of qualified or trained individuals by persons carrying on animal-related businesses.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
