

ISIOLO COUNTY ANIMAL WELFARE BILL 2014

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A Bill for

AN ACT of the Isiolo County Assembly to make provision on welfare of animals; and for connected purposes

PART I—PRELIMINARY

Short title. **1.** This Act may be cited as the Isiolo County Animal Welfare Act, 2014.

Interpretation. **2.** In this part, unless the context otherwise requires—

“animal” means a living vertebrate animal including any mammal, bird, reptile, amphibian and fish; **“abandoned animal”** means an animal that—

(a) is apparently ownerless and roaming at large;

(b) is found on rented premises after the expiration or termination of the tenancy agreement;

(c) is found on premises after the owner has sold or vacated the premises; or

(d) by agreement between the animal's owner and another person, has been left in the care of the other person and has not been retrieved from the other person for more than four days after the agreed-upon retrieval time;

“care” includes the provision of food, water, shelter and medical attention to an animal;

“caregiver” means a person or organization selected by an veterinary or lawful authority to provide care to an animal that has been seized or taken into custody;

“holding ground” means any place where commercial animals are assembled for shipment by any form of transportation;

“costs of care” means any amount established in the regulations to be costs of care or, where no such amount is established, any reasonable and necessary costs incurred under this Act to seize, take custody of, transport, provide care to, sell, or destroy an animal;

“county executive member” means the county executive member responsible for matters relating to Agriculture, Livestock, Fisheries and

“needless suffering” means suffering that is not inevitable or intrinsic to an

accepted activity;

"owner" includes—

- (a) a person having possession or control of an animal or occupying premises containing an animal; and
- (b) a person who possessed or controlled an animal, or occupied premises containing the animal, immediately before it was seized or taken into custody under this Act;

"person" includes a includes a company, association or other body whether incorporated or unincorporated.

"vehicle" includes any motor vehicle, railway carriage or carriage;

"veterinary" means veterinary paraprofessional, veterinary specialist or veterinary surgeon

"veterinary para professional" means as defined in the Veterinary Surgeons and Veterinary Paraprofessionals Act;

"veterinary specialist" means as provided in the Veterinary Surgeons and Veterinary Paraprofessionals; and

"veterinary surgeon" means as provided for in the Veterinary Surgeons and Veterinary Paraprofessionals.

PART II—PROTECTION OF ANIMALS

Duties of owner.

3. A person who has ownership, possession or control of an animal shall—
 - (a) ensure that the animal has an adequate source of food and water;
 - (b) provide the animal with adequate medical attention when the animal is wounded or ill;
 - (c) provide the animal with reasonable protection from injurious heat or cold; and
 - (d) not confine the animal to an enclosure or area with—

- (i) with inadequate space,
- (ii) with unsanitary conditions,
- (iii) with inadequate ventilation or lighting, or
- (iv) without providing an opportunity for exercise,

so as to significantly impair the animal's health or well-being.

(2) A person shall not inflict upon an animal any suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or welfare.

(3) Subsection (1) does not apply where the suffering, injury, harm, anxiety or distress is caused by a treatment, process, or condition that occurs in the course of an accepted activity set out in section 14.

Acts and omissions
which amount to
cruelty to animals.

4. (1) A person is guilty of an offence of cruelty if—

(a) cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, infuriates or terrifies an animal;

(b) uses an animal which is so diseased, injured or in such physical condition that it is unfit to be so used;

(c) conveys, carries, confines or impounds an animal in a manner or position which causes that animal unnecessary suffering;

(d) without sufficient cause, starves, underfeeds or denies water to an animal ;

(e) being the owner of an animal, without reasonable cause or excuse, abandons it, whether permanently or not, in circumstances likely to cause the animal unnecessary suffering;

(f) being the owner of an animal, keeps it in a grossly dirty or verminous condition or, without reasonable cause or excuse, fails to procure or administer veterinary treatment or attention for the animal in case of disease, injury or delivery of young;

(g) wilfully, without reasonable cause or excuse, administers a poisonous or injurious drug or substance to an animal or causes any such substance to be taken by an animal;

(h) subjects an animal to veterinary surgery in contravention of the

Veterinary Surgeons Act;

(i) subjects an animal to any operation, surgical interference or other treatment which is performed without due care and humanity;

(j) being the owner of an animal, fails to have it destroyed where the animal is so seriously injured or diseased that to prolong its life would cause it unnecessary suffering;

(k) hunts, kills or destroys an animal in such a manner as to cause that animal more suffering than is necessary; or

(l) being the owner of an animal, without reasonable cause or excuse, does or omits to do an act which causes unnecessary suffering to the animal.

(2) A person who causes or procures an animal to be used or treated in contravention of any of the provisions of subsection (1) is guilty of an offence of cruelty.

(3) A person guilty of an offence of cruelty is liable to a fine not exceeding three hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both.

Fighting and baiting of animal.

5. A person who—

(a) causes, promotes or assists at the fighting or baiting of an animal;

(b) keeps, uses, manages, or acts or assists in the management of, premises for the purpose, or partly for the purpose, of fighting or baiting an animal, or permits any premises or place to be so kept, managed or used; or

(c) receives, or causes or procures any person to receive, money for the admission of any person to premises kept or used for the purpose, or partly for the purpose, of fighting or baiting an animal

commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both.

Offences related to poisoning.

6. (1) A person who—

(a) knowingly puts or places, or causes or procures any person to put or place, or knowingly is a party to the putting or placing in or upon any land

or building any poison, or any fluid or edible matter (not being sown seed or grain) which has been rendered poisonous, shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings.

(2) It shall be a defence to proceedings under paragraph (a) of subsection (1) that the poison was placed for the purpose of destroying insects and other invertebrates, rats, mice and small ground vermin or any other animals where it is found to be necessary in the interests of public health, agriculture, or the preservation of other animals, or for the purpose of manuring the land, and that all reasonable precautions to prevent injury to other animals were taken.

Offences related to use of traps and other devices.

7. (1) A person who for the purpose of capturing or killing an animal—

(a) uses, or causes or procures to be used, a net, snare, trap or other device so designed as to cause unnecessary suffering to an animal captured or killed ; or

(b) having set, or having caused or procured to be set, a net, snare, trap or other device, fails to inspect or to cause some competent person to inspect, the net, snare, trap or other device at reasonable intervals of time and at least once every day between sunrise and sunset, shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings.

(2) Where a person is convicted of an offence under this section, the court may, in addition to any penalty that maybe imposed, order any net, snare, trap or other device used by that person for the capturing or killing of an animal to be forfeited.

Hunting of injured captive animal.

8. (1) A person who, for the purpose of coursing or hunting, liberates a captive animal—

(a) in an exhausted, injured or mutilated condition;

(b) in a manner or place which exposes it to immediate attack, or danger of attack, by other animals; or

(c) in an enclosed space from which it has no reasonable chance of escape, shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both.

(2) For the purposes of this section, a captive animal shall not be deemed to be coursed or hunted before it is liberated for the purpose of being coursed or

hunted, or after it has been recaptured, or if it is under control.

Cruel slaughtering of animals.

9. (1) A person who, whether in a slaughterhouse or abattoir or in any other place, and whether for human consumption or not, slaughters an animal—

(a) in such a manner as to cause it more suffering than is necessary; or

(b) in the sight of another animal awaiting slaughter, commits an offence and liable to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both.

(2) It shall be a defence to proceedings under paragraph(a) of subsection (1) for the defendant to prove—

(a) that at the time of the alleged offence he was of a religious persuasion that prescribed the slaughter of an animal in the manner in which it was slaughtered;

(b) that the animal was slaughtered in a place other than a slaughterhouse or abattoir; and

(c) that the animal was slaughtered for private consumption and that the meat of the animal was not the subject of sale, barter or exchange.

Training of animals.

10. (1) A person who, whether for the purposes of the exhibition or not, trains an animal by the cruel infliction of pain or terror, or by the excessive use of a whip, goad or other instrument, or by the application of heat, electrical shock, or other similar appliance or agency, shall be guilty of an offence and liable to a fine no exceeding two thousand shillings or to a term of imprisonment not exceeding three months, or to both.

(2) Where a person is convicted of an offence under this section, the court may, in addition to any penalty that may be imposed, order any whip, goad or other instrument, or appliance used by that person for the training of an animal to be forfeited.

(3) Where it is proved to the satisfaction of a subordinate court on a complaint made by an authorized officer or police officer that the training or exhibition of an animal has been accompanied by cruelty and should be prohibited or allowed subject only to conditions, the court may make an order against the person in respect of whom the complaint is made prohibiting the training or exhibition or imposing such conditions thereon as may be specified by the

order.

(4) If any person is aggrieved by the making of an order, or by the refusal to make an order, under subsection (3) he may appeal to the High Court whose decision shall be final.

(5) An order made under subsection (3) shall not come into force until seven days after it is made, or, if an appeal has been entered within that period, until the determination of the appeal.

(6) For the purpose of this section, "exhibition" means an exhibition and any entertainment to which the public are admitted whether on payment of money or otherwise.

(7) This section shall not apply to the training of an animal for bona fide military or police purposes nor to the exhibition of an animal so trained.

Prohibition of certain contest, performances and exhibitions with animals.

11. (1) A person who promotes, or takes part in, or causes or knowingly permits to take place, a public performance which includes an episode consisting of or including—

(a) throwing or casting, with ropes or other appliances, of an unbroken or untrained animal;

(b) riding, or wrestling, fighting or struggling with, an untrained animal;
or

(c) riding, or attempting to ride, an animal which by the use of any appliance or treatment involving cruelty is or has been stimulated with the intention of throwing off the rider, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding three months, or to both.

(2) For the purposes of proceedings under paragraphs (a) and (b) of subsection (1), if an animal appears or is represented to spectators to be unbroken or untrained it shall lie on the defendant to prove that the animal is in fact broken or trained.

(3) In proceedings under paragraph (c) of subsection (1) in respect of the use of any appliance or treatment which is therein mentioned upon an animal before or during a performance, it shall be a defence for the defendant to prove that he did not know, and could not reasonably be expected to know, that the appliance or treatment was to be or was used.

(4) In this section, "public performance" does not include a performance

presented to the public by means of the cinematograph.

Prohibition of films involving cruelty of animals.

12. (1) No person shall exhibit to the public, or supply to a person for public exhibition (whether by him or by another person), a cinematograph film if in connection with the production of the film any scene represented in the film was organized or directed in such a way as to involve the cruel infliction of pain on or terror to an animal or the cruel goading of an animal to fury.

(2) In proceedings brought under this section in respect of a film, the court may (without prejudice to any other mode of proof) infer from the film as exhibited to the public or supplied for public exhibition, as the case may be, that a scene represented in the film as so exhibited or supplied was organized or directed in such a way as to involve the cruel infliction of pain on or terror to an animal or the cruel goading of an animal to fury, but (whether the court draws the inference or not) it shall be a defence for the defendant to prove that he believed, and had reasonable cause to believe, that no scene so represented was so organized or directed.

(3) A person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both.

(4) For the purposes of this section, a cinematograph film shall be deemed to be exhibited to the public when, and only when, it is exhibited in a place to which for the time being members of the general public have access, whether on payment of money or otherwise, and "public exhibition" shall be construed accordingly.

Hawking of animals in cruel manner prohibited.

13. (1) A person who hawks an animal in such a manner as to cause unnecessary suffering to the animal commits an offence and liable to fine not exceeding one hundred thousand shillings.

(2) For the purposes of this section, "hawk" means to carry in any manner for sale, barter or exchange of animals and includes the act of selling or exposing for sale an animal by a person in or at any place in or at which he does not usually reside or carry on business.

Accepted activities.

14. (1) Subject to subsection (2), an accepted activity includes—

(a) agricultural uses of animals;

- (b) exhibitions and fairs;
- (c) zoological displays;
- (d) transportation of goods
- (e) animal slaughter;
- (f) medical care;
- (g) animal discipline and training;
- (h) protection of people or property;
- (i) sporting events;
- (j) fishing and hunting;
- (k) trapping;
- (l) research and teaching involving animals;
- (m) pest control;
- (n) control of predators;
- (o) euthanasia of animals;
- (p) animal breeding;
- (q) approved animal husbandry; or
- (r) any other activity designated by the regulations as an accepted activity.

(2) An activity is an accepted activity under subsection (1) only if it is carried out in a manner consistent—

- (a) with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
- (b) with generally accepted practices or procedures for such activity, and that does not cause needless suffering; or
- (c) that is otherwise reasonable in the circumstances, and that does not cause needless suffering; and

(d) is not a practice or procedure specified as prohibited in the regulations.

Prohibited practices
and procedures

15. (1) No person shall engage in a practice or procedure specified as prohibited in the regulations.

(2) No person shall load or transport an animal, or permit an animal to be loaded or transported, in a vehicle if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or would suffer unduly during transport.

(3) Any person who commits any of the acts mentioned in subsection (2) of this section shall be liable on conviction to a fine of fifty thousand shillings or imprisonment of six months.

(4) Despite subsection (2), as long as the animal is loaded and transported in a proper manner, a person may transport it to or from a veterinary clinic or the nearest suitable place to obtain medical attention.

(5) No person shall, for the purpose of resale or further shipment,

(a) unload a animal, or permit an animal to be unloaded, from a vehicle;
or

(b) accept, or permit a animal to be accepted;

at a animal market or holding ground if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or is suffering unduly.

(6) When an animal is not accepted under sub section (4)(b), the operator of the animal market or holding ground shall promptly—

(a) notify the director that the animal was not accepted; and

(b) provide any information respecting the matter that the director requests.

(7) A veterinary or lawful authority who believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly—

(a) report his or her belief to the director; and

(b) provide any information respecting the matter that the director

requests.

PART III – INTERVENTION

- Animals in distress. **16.** (1) Subject to subsection (2), an animal is in distress if it is—
- (a) wounded or injured;
 - (b) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;
 - (c) subjected to conditions that cause the animal to suffer acute pain;
 - (d) not provided food and water sufficient to maintain the animal in a state of good health;
 - (e) not provided appropriate medical attention when the animal is wounded or ill;
 - (f) unduly exposed to cold or heat; or
- (2) An animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of an accepted activity.
- Appointment of **17.** The county service board after consultation with the county executive county officers. member board may, on such terms and conditions as the county executive member may specify, appoint any person as a veterinary para-professional, veterinary specialist or veterinary surgeon as defined in the Veterinary Surgeons Act.
- Entry and inspection. **18.** (1) A person duly authorized in writing in that behalf by the county executive member may, at any reasonable time and where reasonably required to administer or determine compliance with this Act,
- (a) enter and inspect any facility, premises or other place, or stop and inspect any vehicle, that is being operated in the course of an activity—
 - (i) for which a person is or is required to be licensed under this Act,
 - (ii) that purports to be an accepted activity under subsection 14 and in respect of which a standard or code of conduct, criteria, practice or procedure has been specified as acceptable in the

regulations,

(iii) that relates to the operation of an animal holding ground; or

(iv) that involves a commercial animal;

(b) open any receptacle, package, cage or thing that the veterinary or lawful authority or veterinary believes on reasonable grounds is being kept in the course of that activity;

(c) view any animal or conduct an examination of any animal in the place or vehicle, whether or not the animal is apparently in distress;

(d) conduct any test, take any sample or make any other examination of the place or vehicle or of any animal, substance or thing, including the carcass of a dead animal, that is in or has been in the place or vehicle;

(e) inspect any licence, record or other information;

(f) make a copy, or obtain a printout or an electronically readable format, of any licence, record or other information in the place or vehicle; and

(g) remove any licence, record or information for copying, subject to its being returned as soon as reasonably practicable.

(2) Without restricting the generality of subsection (1) with respect to inspection of facilities, premises or other places, or vehicles containing companion animals, a veterinary or lawful authority may, at any reasonable time and where reasonably required to determine compliance with this Act,

(a) enter and inspect any facility, premises or other place that is not a dwelling place, or stop and inspect any vehicle, in which the veterinary or lawful authority officer believes on reasonable grounds there is a companion animal in distress; and

(b) view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

(3) A veterinary or lawful authority may, at any reasonable time and where reasonably required to determine whether an animal is in distress,

(a) enter onto the land on which a dwelling place is located;

(b) require any person in the dwelling place to produce the animal for viewing or examination; and

(c) once the animal is produced, view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

(4) The power to require production of an animal under subsection (6) does not restrict or extinguish the power to conduct an inspection under subsection (1) with respect to any activity referred to in section (1)(a) that occurs inside a dwelling place.

(5) A person in a dwelling place who is required to produce an animal for viewing or examination under subsection (6) shall immediately produce the animal.

(6) A magistrate who is satisfied by information on oath that there are reasonable grounds to believe that there is an animal in distress in a dwelling place may at any time issue a warrant authorizing a veterinary or lawful authority and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the dwelling place for the animal and to take any action in relation to the animal as is authorized under this Act with respect to an animal in distress.

Magistrate orders.

19. (1) A magistrate who is satisfied by information on oath that there are reasonable grounds to believe that—

(a) an offence under this Act has been committed or is being committed; and

(b) there is to be found in any place or vehicle an animal or thing that will afford evidence of the offence;

may at any time issue a warrant authorizing an veterinary and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the place or vehicle for the animal or thing and to seize it and to bring it before a justice or to report on it to a justice to be dealt with according to law.

(2) A veterinary may take any action authorized under sections 20 or 21 without a warrant if conditions for obtaining a warrant under sections 20 or 21 exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant.

(3) A veterinary or lawful authority who enters an unoccupied place or vehicle under this section shall leave in the place or vehicle a notice indicating the veterinary's and lawful authority name, the time of entry and the reason for entry.

(4) A veterinary or lawful authority may use force as is reasonably necessary to

execute a warrant or to carry out an authorized action under this Act.

(5) The owner or occupier or any person on land or in premises or a vehicle which is enter under this section shall render such reasonable assistance as may be required by the inspector.

(a) A person who refuses, unreasonably delays or fails to comply with a requirement under sub section 4 commits an offence.

(6) No person shall obstruct or hinder or make a false or misleading statement to a veterinary or lawful authority who is carrying out an authorized action under this Act.

(a) A person who contravenes subsection (5) above commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding three years, or both.

Magistrate to issue warrant.

20. (1) A court may issue a warrant authorizing a veterinary or lawful authority and any other person named in the warrant, together with such police officers as are required to assist, to enter the place or vehicle and carry out an inspection in accordance with the powers referred to in subsection (1).

(2)The owner or person in charge of a place entered by a veterinary and lawful authority under this section, and any person found in that place, shall—

(a) give the veterinary or lawful authority all reasonable assistance to enable the veterinary or lawful authority to carry out any action authorized under this Act;

(b) furnish the veterinary or lawful authority with any licence, record or information he or she may reasonably require to carry out any action authorized under this Act; and

(c) produce any animal that the veterinary or lawful authority requires for viewing or examination.

(3) Where veterinary or lawful authority signals or requests a person driving a vehicle that is subject to being inspected to stop, the person shall immediately bring the vehicle to a stop and shall not proceed until permitted to do so by the veterinary or lawful authority, and shall give the veterinary or lawful authority assistance in the same manner as specified in subsection (3).

Entry and inspection to enforce orders.

21. (1) A veterinary or lawful authority may, at any reasonable time and

where reasonably required to determine compliance with this Act or relevant legislation—

(a) enter and inspect any place in which the veterinary or lawful authority believes on reasonable grounds there is or should be an animal, structure, supply of food or water, shelter, enclosure, area, document, record or other thing to which the order applies;

(b) inspect, test or examine the structure, supply of food or water, shelter, enclosure, area, document, record or thing; and;

(c) view or conduct an examination of any animal

(2) A court may at any time issue a warrant authorizing veterinary or lawful authority and any other person named in the warrant, with such police officers as are required to assist, to enter and inspect the place and exercise such other powers referred to in subsection (1) as may be specified in the warrant.

Actions veterinary or lawful authority may take where an animal is in distress.

22. (1) A veterinary or lawful authority who discovers an animal that the officer believes on reasonable grounds is in distress may do one or more of the following:

(a) provide any care or take any other action the veterinary or lawful authority considers necessary to relieve the animal's distress;

(b) seize the animal;

(c) notify the director for the purpose of making an order under section 24 (1).

Destruction of animal.

23. (1) If a seized animal is, in the opinion of—

(a) a veterinary;

(b) two other individuals, if a veterinarian is not readily available on a timely basis; or

(c) a person, if neither a veterinarian or two other individuals are readily available on a timely basis;

in such distress that it would be inappropriate to allow the animal to continue to live, a veterinary or lawful authority may destroy the animal or cause the animal to be destroyed.

(2) A veterinary or lawful authority who provides care to or seizes an animal under subsection 20 (1) or destroys an animal under subsection (1) shall take reasonable steps to locate the owner of the animal as soon as reasonably practicable and to advise the owner that the animal was found to be in distress and of any action taken by the veterinary or lawful authority in respect to the animal.

Director's order to take action.

24. (1) Where the veterinary has reasonable grounds to believe that—

(a) an animal is in distress; or

(b) an animal's owner is not carrying out his or her duties toward the animal as set out in section 2;

the veterinary or lawful authority may order the owner to take any action that the director believes is necessary, including having the animal examined and treated by a veterinary at the expense of the owner, in order to—

(a) relieve the animal of its distress; or

(b) ensure that the owner carries out his or her duties toward the animal.

(2) The order must state the reasons for making it and advise the owner of the right to appeal the order under section 25.

(3) The order must be given to the owner in accordance with the regulations.

(4) Where, in the director's opinion, the circumstances that gave rise to the order no longer exist, they shall revoke the order and give written notice of the revocation to the owner.

- (5) An order expires one year after the date it is given, unless it is—
- (a) sooner revoked by the director under subsection (4); or
 - (b) extended by the director for a further period that must not exceed one year.

Appeal.

- 25.** (1) The owner to whom an order is directed may appeal the order by filing a notice of appeal with the county executive committee member within seven days after receiving a copy of the order.

(2) An appeal of an order does not stay the operation of the order.

(3) After a hearing, the county executive committee member may make any of the following orders—

- (a) an order confirming, varying or rescinding the director's order;
- (b) if the director's order is varied or rescinded, an order that all or any part of the costs incurred by the owner in complying with the director's order be paid by the county government to the owner;
- (c) any other order that the appeal board considers appropriate in the circumstances.

Application for order.

- 26.** (1) The director may apply to a magistrate for an order under subsection (2) in respect of an owner, if—

(a) animals have been seized from the owner under subsection 20(1) or the owner has voluntarily surrendered animals to the director; and

(b) the director believes on reasonable grounds that—

(i) at the time those animals were seized or surrendered, the owner was unable to carry out his or her duties under this Act because the number or type of animals owned, possessed or controlled by the owner exceeded the owner's ability to carry out his or her duties toward them, and

(ii) the owner is not, or may not be, able to carry out his or her duties under this Act toward the animals that the owner presently owns, possesses or controls, or may own, possess or control, because the circumstances mentioned in subsection (b)

(i) continue to exist or may occur again.

(2) On an application under subsection (1), a magistrate may make an order—

(a) prohibiting an owner from owning or having possession or control of more than a specified number or type of animals, for a period up to three years; and

(b) directing that any animals owned, possessed or controlled by the owner at the time the order is made—

(i) beyond the number of animals allowed under the order, or

(ii) other than the type of animal allowed under the order,

becomes the property of the county government.

Seizing animals for non-compliance with order.

27. Where as a result of an inspection under this Act a veterinary or lawful authority has reasonable grounds to believe that an owner has not complied with an order referred to in that section, the officer may

(a) seize the animal; or

(b) seize any or all of the owner's animals so that the number or type of animals owned, possessed or controlled by the owner is in compliance with the order.

Abandoned animals taken into custody.

28. A veterinary or lawful authority who discovers an animal that they believe on reasonable grounds is abandoned or is lost may take the animal into custody and provide it with any care the officer considers necessary.

Placement with caregiver.

29. (1) A veterinary or lawful authority who seizes an animal or takes an abandoned animal into custody under this Act may act as a caregiver or may put the animal under the control of a caregiver.

(2)A caregiver may provide such care to an animal that has been seized or taken into custody under this Act as the caregiver considers reasonable in the circumstances or as may be directed by the director.

(3)The director or a veterinary or lawful authority may remove an animal from the control of a caregiver and put the animal under the control of a different caregiver or otherwise deal with the animal in accordance with this Act.

(4)When a veterinary or lawful authority —

- (a) provides care to or seizes an animal under subsection 20 (1);
- (b) takes an abandoned animal into custody under section 28;
- (c) destroys an animal under subsection 23(1); or
- (d) puts an animal under the control of a caregiver under this section;

the veterinary or lawful authority shall, within a reasonable time and in a form as may be required by the director, notify the director of such action.

(5) Where a veterinary or lawful authority determines that to ensure compliance with the regulations it is no longer necessary to detain an animal by the caregiver under this section, the officer shall notify in writing the owner or other person in charge of the place where the seizure occurred of that determination and, on being issued a receipt for it, shall return the animal to that person.

PART IV—DISPOSING OF SEIZED AND ABADONED ANIMALS

Notice of owner of
right of appeal.

30. (1) Within seven days after an animal is seized under subsection 22 or taken into custody under section 28, the director must give the owner notice that the animal will be sold, given away or destroyed if the owner does not file an appeal.

(2) A notice of appeal must be filed with the county executive committee member within seven days after the day notice under subsection (1) is given to the owner.

(3) If the time for filing an appeal under subsection (2) has elapsed and the owner of an animal that has been seized or taken into custody has not filed an appeal, the director may sell, give away or destroy the animal.

(4)The notice under subsection (1) must be given to the owner in accordance with the regulations.

(5) After a hearing, the county executive member may make any of the following orders—

- (a) an order that the animal be returned to the owner;
- (b) an order that they may sell, give away or destroy the animal;
- (c) any other order that the county executive committee member

considers appropriate in the circumstances.

(6) When the county executive committee member has made an order under subsection (5), the director must deal with the animal in the manner ordered

(7) If seven days have elapsed after an animal is seized or taken into custody and, despite reasonable inquiries by veterinary or lawful authority, the animal's owner has not been located, the director may sell, give away or destroy the animal.

Animal shall be returned.

31. An animal that has been seized under subsection 22 shall be returned to the owner of the animal by an veterinary or lawful authority within seven days of the seizure of the animal unless—

(a) the owner has not been located despite due inquiry by an veterinary or lawful authority; or

(b) the director has given the owner of the animal a notice under section 30 that the animal will be sold, given away or destroyed after seven days have elapsed since the date the notice was given.

Animal may be sold.

32. The director may sell, give away or destroy an animal that has been seized under subsection 22 (1) or taken into custody under section 28 if—

(a) the director has given notice to the owner that the animal will be sold, given away or destroyed; and

(b) seven days have elapsed since the notice was given and the owner has not filed a notice of appeal under section 30.

Animal's owner not located.

33. (1) If seven days have elapsed after an animal has been seized or taken into custody under this Act and, despite reasonable inquiries by an veterinary or lawful authority, the animal's owner has not been located, the director may sell, give away or destroy the animal.

(2) The proceeds mentioned in this section shall devolve upon the county government.

Transfer of ownership.

34. Where the director sells or gives away an animal under this Act, the animal becomes the property of the person to whom the animal was sold or given.

Owner liable for costs.

35. (1) The owner of an animal that has been seized or taken into custody is liable to pay to the director on demand an amount equal to the costs of care for the animal.

(2)The director may at any time, and shall upon the request of an owner of an animal that has been seized or taken into custody, provide to the owner a statement of account setting out the costs of care for the animal claimed by the director.

(3)The director may waive all or any part of the costs of an animal's care if the owner satisfies the director that payment of the waived amount would be an unreasonable hardship for the owner

Objection to amount claimed.

36. (1) On application by an owner who has been provided a statement of account 34, the court shall review and determine the amount to be paid to the director for the costs of care for the animal.

(2)A notice of application under this section shall be filed with the court and served upon the director within seven days of receipt of the statement of account by the owner.

(3)If the owner of an animal that has been seized or taken into custody under this Act—

(a) has failed to pay the costs of care set out in a statement of account provided under section 35(2) and the owner has not made an application under section 30; or

(b) has made an application under section 30, and has failed to pay the costs of care determined by the court to be payable within three days of the determination of the costs of care by the court;

the director may sell, give away or destroy the animal.

Proceeds of sale.

37. (1) Subject to subsections (2) and (3), where an animal is sold by the director under this Act, proceeds of the sale shall be disbursed in the following order of priority—

(a) the director shall retain an amount equal to the costs of care; and

(b) the balance of the sale proceeds shall be paid to the former owner of the animal.

(2)The former owner of an animal that is sold by the director under this Act shall pay to the director an amount equal to any portion of the costs of care that

are not recovered from the proceeds of the sale of the animal.

(3) In the event the director has reason to believe a creditor may have a security interest in an animal sold by the director under this Act, the director may apply to the court for an interpleader order in respect of the balance of the sale proceeds over and above an amount equal to the costs of care for the animal.

(4) Where, despite due inquiry by a veterinary or lawful authority, the owner of an animal that has been seized or taken into custody is unknown, the balance of the sale proceeds over and above an amount equal to the costs of care for the animal, if any, shall be retained by the director and forfeited to the county government.

Costs recoverable as debt due.

38. (1) Any amount for which a person is liable for costs of care under this Act is a debt due by that person to the county government.

(2) The county government has a lien on an animal that has been seized or taken into custody for an amount equal to the costs of care for that animal.

PART V— LICENSING PROVISIONS

Animal breeding premises licences.

39. (1) No person shall operate an animal breeding premises except under the authority of a licence issued by the director for that purpose.

(2) In subsection (1), "animal breeding premises" means premises where more than the prescribed number of female companion animals that are capable of reproduction are kept.

(3) A female animal is deemed to be capable of reproduction unless the owner or operator of the premises satisfies the director or a veterinary or lawful authority otherwise.

(4) A licence under subsection (1) is not required in respect of premises where more than the prescribed number of female animals capable of reproduction are kept if the owner or operator of the premises satisfies the director or a veterinary or lawful authority that the animals are not kept for the purpose of breeding them and selling their offspring.

Animal retail store licences

40. (1) No person shall operate an animal retail store except under the authority of a licence issued by the director for that purpose.

(2) " animal retail store" in this section means commercial premises where

companion animals are kept and offered for sale to the public.

License application

41. (1) An application for a licence shall be made to the director and shall contain the information and be accompanied by the fee and any documentation prescribed by regulations.

(2)The director may require an applicant for a licence to submit any additional information the director considers necessary.

(3)The director may require an applicant for a licence to provide security to ensure that the premises operated by the applicant will be operated in accordance with this Act and the regulations.

(4)The security must meet the requirements set out in the regulations.

Issuing or refusing a licence

42. (1) The director may issue or refuse to issue a licence.

(2)The director may issue a licence to an eligible applicant if—

(a) the application has been made in accordance with this Act; and

(b) the director is of the opinion that—

(i) the premises and its proposed operation, as specified in the application, conform with the requirements of the regulations; and

(ii) the application accurately reflects the actual or proposed operation of the premises.

(3)The director may—

(a) issue a licence subject to any terms and conditions the director considers appropriate, including specifying the maximum number of animals that the licence holder can keep on the licensed premises; and

(b) at any time, impose terms and conditions on a licence previously issued.

(4)The holder of a licence shall comply with this Act and the terms and conditions of the licence.

(5)The holder of a licence shall keep the licence posted in the licensed premises in a clearly visible and prominent place.

- Register of licensed premises **43.** The director may, in accordance with the regulations—
- (a) establish and maintain a register, which may be in electronic form and may include personal information, of persons who operate premises licensed under this Act; and
 - (b) make information from the register available to the public.
- Notice of refusal **44.** If the director refuses to issue a licence, the director shall give the applicant a written notice of the refusal, in accordance with the regulations, that shall give reasons for the refusal.
- Term of licence **45.** (1) A licence issued by the director shall be valid for a term of one year or such other term as may be provided for in the regulations.
- (2) A licence is not transferable to another person or to other premises.
- Suspension or cancellation of licence **46.** The director may suspend or cancel a licence by giving, in accordance with the regulations, a written notice of suspension or cancellation to the licence holder, with reasons, if the director is satisfied that—
- (a) the licence holder has failed to comply with this Act or a term or condition of the licence;
 - (b) the licence holder has been found guilty of an offence under any Act relating to the treatment of animals or the wrongful possession of an animal; or
 - (c) the suspension or cancellation is authorized for any reason specified in the regulations.

PART VI—GENERAL PROVISIONS

- Disposal of dead animals. **47.** (1) Within seventy-two hours after death or discovery of a dead animal, the owner or, if the owner of the animal cannot be identified, the owner of the property on which the animal is found must properly dispose of the dead animal.
- (2) Where the owner of the animal cannot be traced, it shall be the

responsibility of the county government to dispose of the dead animal.

(3) The person responsible for disposal of a dead animal must dispose of it in a manner so as not to become a public or common nuisance or cause pollution of surface or groundwater.

(4) The person responsible for disposal of a dead animal must dispose of it by burial, land filling, incineration, composting, rendering, or another method approved by the local health officer.

(5) A person disposing of a dead animal by burial must place it so that every part is covered by at least three feet of soil; at a location not less than one hundred feet from any well, spring, stream or other surface waters; not in a low-lying area subject to seasonal flooding or within a one hundred-year flood plain; and not in a manner likely to contaminate groundwater.

(6) A person disposing of a dead animal must not bury or compost it within the sanitary control area of a public drinking water supply source.

(7) The local health officer may specify the method of disposal for a dead animal if—

- (a) the animal died with a communicable disease transmissible to humans;
or
- (b) the local health officer considers a public health emergency to exist.

Offences.

48. (1) A person who contravenes any provision of this Act for which no penalty has been provided or an order made under this Act commits an offence and is liable—

(a) to a fine of not more than five hundred thousand shillings, or to imprisonment for a term of not more than twelve months, or both; and

(b) for a subsequent offence, to a fine of not more than two hundred thousand shillings, or to imprisonment for a term of not more than 12 months, or both.

(2) Where a company, association or other body commits an offence, a director or officer or agent of the company, association or other body who authorized, permitted or acquiesced to the offence also commits the offence and is liable to the penalty for the offence provided for in this section.

(3) A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner consistent—

(a) with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;

(b) consistent with generally accepted practices or procedures for such activity; or

(c) otherwise reasonable in the circumstances.

Prohibition of ownership.

49. Where a person is found guilty of an offence, the magistrate may—

(a) prohibit the person from owning or having possession or control of animals or of a number or type of animals for any period that the magistrate considers appropriate, including a lifetime ban on an individual or any corporation controlled by the individual;

(b) direct that any other animals owned by the person become the property of the county government.

(2) A prosecution under this Act may not be commenced later than two years after the day the alleged offence was committed.

Advisory committee.

50. (1) The county executive member may appoint an advisory committee to provide advice and recommendations to the county executive committee member about matters concerning the administration of the Act.

(2) The county executive member may determine the terms of the reference and

the procedures of an advisory committee.

(3)Members of an advisory committee may be paid expenses determined by the governor.

Protection from liability.

51. No action or proceeding may be commenced against the county executive member, the director, an agent of the director, an veterinary or lawful authority, a member of the advisory committee or a caregiver for any act done in good faith in the performance or intended performance of a responsibility or in the exercise or intended exercise of an authorized action under this Act, or for any neglect or default in the performance of a responsibility or the exercise of an authorized action in good faith.

Regulations.

52. The county executive member may make regulations—

- (a) designating an activity as an accepted activity;
- (b) specifying standards or codes of conduct, criteria, practices or procedures as acceptable;
- (c) specifying practices or procedures that are prohibited;
- (d) establishing costs of care or a method for determining costs of care that are payable by the owner of an animal that has been seized or taken into custody under this Act;
- (e) respecting standards and requirements for the operation of commercial animal markets and commercial animal assembling stations, including standards or requirements relating to—
 - (i) hygiene,
 - (ii) sanitation,
 - (iii) recordkeeping, and
 - (iv) the feeding, watering and handling of animals in those premises; and
 - (v) requiring operators of those premises to comply with the standards and requirements;
- (f) respecting licensing under this Act, including—

- (i) the content of applications for licences,
 - (ii) the qualifications of, and requirements to be met by, applicants for and holders of licences,
 - (iii) information and records to be provided to the director by applicants for and holders of licences,
 - (iv) licence fees and exemptions from fees,
 - (v) bonds and other security, including the terms, conditions and other security,
 - (vi) the records to be maintained by licence holders, including the length of time for which and the location at which records must be retained, and
 - (vii) licence suspensions and cancellations;
- (g) respecting standards and requirements to be met by operators of animal breeding premises, animal retail stores and kennels, including—
- (i) the standards of design for the premises,
 - (ii) the standards of hygiene and sanitation required in the premises,
 - (iii) the standards or requirements for feeding; and watering animals in the premises, and
 - (iv) health or disease prevention procedures that are required to be performed by the operators of the premises;
- (h) respecting any matter that the county executive member considers necessary or advisable to carry out the purposes of this Act.