

The Maharashtra Animal Preservation Act, 1976.

MAHARASHTRA

India

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Act 9 of 1977

- Published in Gazette 9 on 27 January 2017
- Assented to on 27 January 2017
- Commenced on 27 January 2017
- [This is the version of this document from 27 January 2017.]
- [Note: The original publication document is not available and this content could not be verified.]

The Maharashtra Animal Preservation Act, 1976. Act No. 9 of 1977 An Act to provide for the prohibition of slaughter of cows and and preservation of cows, bulls and bullocks useful for milch, breeding, draught or agricultural purposes and for restriction on slaughter for the preservation of certain other animals suitable for the said purposes. WHEREAS it is expedient to provide for the prohibition of slaughter of cows and preservation of cows, bulls and bullocks useful for milch, breeding, draught or agricultural purposes and for restriction on slaughter for the preservation of certain other animals suitable for the said purposes and to provide for matter connected therewith; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title, extent, commencement and application.

(1) This Act may be called the Maharashtra Animal Preservation Act, 1976. (2) It extends to the whole of the State of Maharashtra. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint. (4) It shall apply to cows, bulls and bullocks and to scheduled animals.

2. Declaration of State Policy.

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in article 48 of the Constitution of India.

3. Definitions.

In this Act, unless the context otherwise requires,—(a) "Competent authority" means a person or body of persons appointed by the State Government under section 4 to perform the functions of a competent authority under this Act; (b) "cow" includes a heifer or male or female calf of a cow; (c) "prescribed" means prescribed by rules made under this Act; (d) "Schedule" means the

Schedule appended to this Act;(e)"scheduled animal" means any animal specified in the Schedule; and the State Government may, by notification in the Official Gazette, add to the Schedule any species of animals, after considering the necessity for preservation of that species of animals; and the provisions of sub-section (3) of section 16, in so far as they relate to laying before, and modification by, the State Legislature, shall apply in relation to such notification as they apply to any rule made under that section.

4. Appointment of competent authorities.

The State Government may, by notification in the Official Gazette, appoint one or more persons or one or more bodies of persons to perform the function of a competent authority under this Act and specify the areas within which they shall perform such functions.

5. Prohibition of slaughter of cows.

Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary no person shall slaughter or cause to be slaughtered or offer for slaughter any cow, bull or bullock in any place in the State of Maharashtra.

5A. Prohibition on transport and export of cow, bull or bullock for slaughter

(1)No person shall transport or offer for transport or cause to be transported cow, bull or bullock from any place within the State to any place outside the State for the purpose of its slaughter in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be, slaughtered.(2)No person shall export or cause to be exported outside the State of Maharashtra cow, bull or bullock for the purpose of slaughter either directly or through his agent or servant or any other person acting on his behalf, in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be slaughtered.

5B. Prohibition on sale, purchase, disposal in any other manner of cow, bull or bullock

No person shall purchase, sell or otherwise dispose of or offer to purchase, sell or otherwise dispose of any cow, bull or bullock for slaughter or knowing or having reason to believe that such cow, bull or bullock shall be slaughtered.

5C. Prohibition on possession of flesh of cow, bull or bullock

Notwithstanding anything contained in any other law for the time being in force no person shall have in his possession flesh of any cow, bull or bullock slaughtered in contravention of the provisions of this Act.

5D. Prohibition on possession of flesh of cow, bull or bullock slaughtered outside the State of Maharashtra

No person shall have in his possession flesh of any cow, bull or bullock slaughtered outside the State of Maharashtra.[In the case of Sheikh Zahid Mukhtar v State of Maharashtra, 2016, Deciding a petition challenging various provisions of Maharashtra Animal Preservation Act 1976 as amended by Maharashtra Preservation Act 1995, a bench consisting A.S. Oka and S.C. Gupte, J.J., struck down two amendments of Maharashtra Animal Preservation Act 1976 and upheld the constitutional validity of rest of the provisions. In the case, where a complete prohibition on slaughter of bulls and bullocks was imposed in addition to the slaughter of cows by an Amendment Act of 1995, the petitioners contended that incorporation of Section 5D infringes upon the right to life and personal liberty under Article 21 which includes right to have food of one's own choice and section 9B imposes a negative duty upon a person who is found in possession of the meat. Constitutional validity of Sections 5D and 9B of Maharashtra Animal Preservation Act, was struck down. The Court adopted the principle of 'conscious possession' which states that 'possession with the knowledge that the flesh is of cow, bull or bullock which is slaughtered in contravention of Section 5 of Animal Preservation Act' and upheld the validity of Section 5C. The Court declared Section 5D and 9B unconstitutional and not fair, just and reasonable. The Court was of the view that prohibition of possession of flesh of cow, bull or bullock which is slaughtered outside the State is an infringement of right to privacy which is embodied in Article 21 which is an integral part of personal liberty.(<https://indiankanoon.org/doc/153513175/>,<https://www.thehindu.com/news/national/other-states/>)]

6. Restrictions on slaughter of scheduled animals.

(1)Notwithstanding anything contained in any law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered any scheduled animal in any place in the State of Maharashtra, unless he has obtained in respect of such animal a certificate in writing from the competent authority that the animal is fit for slaughter.(2)No certificate shall be granted under sub-section (1), if in the opinion of the competent authority,—(a)the scheduled animal, whether male or female, is or likely to become economical for the purpose of draught or any kind of agricultural operations;(b)the scheduled animal, if male, is or is likely to become economical for the purpose of breeding;(c)the scheduled animal, if female, is or is likely to become economical for the purpose of giving milk or bearing offspring.(3)The State Government may, on an application by any person aggrieved by an order passed by the competent authority refusing to grant him a certificate, made to it within sixty days from the date of receipt of such order, or at any time suo motu, call for and examine the records of the case for the purpose of satisfying as to the legality or propriety of any order passed by the competent authority under this section, and pass such order in reference thereto as it thinks fit.(4)A certificate under this section shall be granted in such form and upon payment of such fees as may be prescribed.(5)Subject to the provisions of sub-section (3), any order passed by the competent authority granting or refusing to grant a certificate, and any order passed by the State Government under sub-section (3), shall be final and shall not be called in question in any Court.

7. Scheduled animals to be slaughtered at specified places only.

No scheduled animal in respect of which a certificate has been issued under section 6 shall be slaughtered in any place other than a place specified by such authority or officer as the State Government may appoint in that behalf.

8. Power of entry, search, seizure and custody

(1) For the purposes of this Act, the competent authority or any person authorised in writing in that behalf by the competent authority (hereinafter in this section referred to as "the authorised person") shall have power to enter and inspect any place where the competent authority or the authorised person has reason to believe that an offence under this Act has been, or is likely to be, committed. (2) Every person in occupation of any such place shall allow the competent authority or authorised person such access to that place as may be necessary for the aforesaid purpose and shall answer to the best of his knowledge and belief any question put to him by the competent authority or the authorised person. (3) Any Police Officer not below the rank of Sub-Inspector or any person authorised in this behalf by the State Government, may, with a view to securing compliance of the provisions of sections 5A, 5B, 5C or 5D, for satisfying himself that the provisions of the said sections have been complied with may, - (a) enter, stop and search, or authorise any person to enter, stop and search any vehicle used or intended to be used for the export of cow, bull or bullock; (b) seize or authorise the seizure of cow, bull or bullock in respect of which he suspects that any provision of sections 5A, 5B, 5C or 5D has been, is being or is about to be contravened, along with the vehicles in which such cow, bull or bullock are found and thereafter take or authorise the taking of all measures necessary for securing the production of such cow, bull or bullock and the vehicles so seized, in a court and for their safe custody pending such production: Provided that pending trial, seized cow, bull or bullock shall be handed over to the nearest Gosadan, Goshala, Panjrapole, Hinsa Nivaran Sangh or such other Animal Welfare Organizations willing to accept such custody and the accused shall be liable to pay for their maintenance for the period they remain in custody with any of the said institutions or organizations as per the orders of the court. (4) The provisions of section 100 of the Code of Criminal Procedure, 1973 relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

9. Penalty for contravention of section 5, 5A or 5B

Whoever contravenes any of the provisions of section 5, 5A, or 5B shall, on conviction, be punished with imprisonment for a term which may extend to five years, or with fine which may extend to ten thousand rupees, or with both. Provided that except for special and adequate reasons to be recorded in the judgement of the court such imprisonment shall not be of less than six months and such fine shall not be less than one thousand rupees.

9A. Penalty for contravention of sections 5C, 5D or 6.

Whoever contravenes the provisions of sections 5C, 5D or 6 shall, on conviction, be punished with

imprisonment for a term which may extend to one year or fine which may extend to two thousand rupees.

9B. Burden of proof on accused

In any trial for an offence punishable under sections 9 or 9A for contravention of the provisions of this Act, the burden of proving that the slaughter, transport, export outside the State, sale, purchase or possession of flesh of cow, bull or bullock was not in contravention of the provisions of this Act, shall be on the accused[In the case of Sheikh Zahid Mukhtar v State of Maharashtra, 2016, Deciding a petition challenging various provisions of Maharashtra Animal Preservation Act 1976 as amended by Maharashtra Preservation Act 1995, a bench consisting A.S. Oka and S.C. Gupte, J.J., struck down two amendments of Maharashtra Animal Preservation Act 1976 and upheld the constitutional validity of rest of the provisions. In the case, where a complete prohibition on slaughter of bulls and bullocks was imposed in addition to the slaughter of cows by an Amendment Act of 1995, the petitioners contended that incorporation of Section 5D infringes upon the right to life and personal liberty under Article 21 which includes right to have food of one's own choice and section 9B imposes a negative duty upon a person who is found in possession of the meat. Constitutional validity of Sections 5D and 9B of Maharashtra Animal Preservation Act, was struck down. The Court adopted the principle of 'conscious possession' which states that 'possession with the knowledge that the flesh is of cow, bull or bullock which is slaughtered in contravention of Section 5 of Animal Preservation Act' and upheld the validity of Section 5C. The Court declared Section 5D and 9B unconstitutional and not fair, just and reasonable. The Court was of the view that prohibition of possession of flesh of cow, bull or bullock which is slaughtered outside the State is an infringement of right to privacy which is embodied in Article 21 which is an integral part of personal liberty.(<https://indiankanoon.org/doc/153513175/>,<https://www.thehindu.com/news/national/other-states>,

10. Offences under Act to be cognizable.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be cognizable and non-bailable.

11. Abetments and attempts.

Whoever abets any offence punishable under this Act or attempts to commit any such offence shall be deemed to have committed that offence and shall, on conviction, be Punished with the punishment provided for such offence under section 9 or Section 9A.

12. Persons exercising powers under this Act deemed to be public servants.

All persons exercising powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

13. Protection of persons acting in good faith under Act or rules.

No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

14. Exemptions under this Act.

Subject to any conditions prescribed in this behalf, this Act shall not apply to,—(a)any animal (other than cow, bull and bullock) operated upon for vaccine, lymph or serum at any institution established, conducted or recognised by the State Government;(b)any animal (other than cow, bull and bullock) operated upon for any experimental or research purposes at the institution referred to in clause (a);(c)any animal (other than cow, bull and bullock) or class thereof,—(i)slaughter of which is certified by a veterinary surgeon authorised in this behalf by the State government to be necessary in the interest of the public health;(ii)which are suffering for any disease which is certified by such veterinary surgeon as being contagious and dangerous to other animals:Provided that no animal referred to in this section shall be slaughtered or cause to be slaughtered unless an authority in writing for such slaughter has been obtained from the competent authority.

15. Delegation of powers.

The State Government may, by notification in the Official Gazette, delegate,—(a)to any local authority, its powers and functions under section 4 within the local area subject to the jurisdiction of such local authority;(b)to any officer of the State Government, its powers and functions under sub-section (3) of section 6.

16. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing provision, such rules may provide for,—(a)the form of the certificate under section 6;(b)the amount of the fee to be paid for such certificate;(c)the conditions subject to which this Act shall not apply to any scheduled animal under section 14;(d)any other matter which is or may be prescribed.(3)Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the Official Gazette of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. Repeal and savings.

On the commencement of this Act, the following Acts, that is to say,—(1)the Bombay Animal Preservation Act, 1948,(2)the Bombay Animal Preservation Act, 1954,(3)the Central Provinces and Berar Animal Preservation Act, 1949, and(4)the Hyderabad (Slaughter of Animals) Act, 1950, shall stand repealed:Provided that such repeal shall not affect,—(a)the pervious operation of any Act so repealed, or anything duly done or suffered thereunder;(b)any right, privilege, obligation or liability acquired, accrued or incurred under any Act so repealed;(c)any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed;(d)any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment aforesaid;and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:Provided further that, subject to the preceding proviso, anything done or any action taken (including notifications, orders or certificates issued, appointments or rules made) under any Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force in the respective area accordingly, unless and until superseded by anything done or any action taken under this Act.

[Section 3 (e)]

Bovines (female buffaloes and buffalo calves).