



SOCIETY FOR THE  
PREVENTION OF CRUELTY  
TO ANIMALS

# **Proposal for Legislative Reform**

Recommendations to Strengthen Animal Welfare Laws in Singapore



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### I. Introduction

1. Section 42 of the *Animals and Birds Act*<sup>1</sup> of Singapore (the “*Singapore Act*”) criminalises cruelty to animals. Although Section 42 has been couched as a legislative provision preventing cruelty to animals, it incorporates “welfare offences” (such as those found in the *United Kingdom’s Animal Welfare Act 2006*) for the purpose of promoting animal welfare.
2. Sections 42(1)(c), 42(1)(f) and 42(2) of the *Singapore Act* can be categorised as “welfare offences”. These relate to the welfare of the animal as they broadly cover issues such as whether the animal has been kept in proper conditions and whether its needs have been neglected. Section 42(2) in particular imposes a duty of care on the owner of an animal.
3. The *Singapore Act* was last revised in 2002. A key amendment was the inclusion of a new offence (abandonment of animals without reasonable cause). In addition, the maximum penalty for animal cruelty offences was increased from a \$500 fine and/or a jail term of six months to a \$10,000 fine and/or a jail term of twelve months. These amendments, in addition to other amendments to Part IV (Prevention of Cruelty to Animals) of the *Singapore Act*, have strengthened the legislative framework governing animal welfare in Singapore.
4. The judicial approach to animal abuse cases is also encouraging. The case law<sup>2</sup> does not indicate a restrictive approach by the Singapore courts in relation to cases of cruelty to animals.

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<sup>1</sup> Cap. 7, 2002 Rev. Ed. Sing.

<sup>2</sup> See for example: *PP v. Hooi Yin Wang David* [2006] SGDC 204; *PP v Seah Kian Hock* [1997] 2 SLR 414, [1997] SGHC 53; *PP v Gracia Michael* [1999] 3 SLR(R) 249, [1999] SGHC 231.



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5. In fact, the courts have not hesitated in handing down appropriate sentences for cruelty offences. As Yong Pung How CJ aptly said:-

*“We are not so inured in apathy that the savage beating of an animal may arouse our outrage only if it involved some form of torture. Our criminal law is dedicated, after all, not only to preventing cases of extreme depravity but also the more commonplace acts of cruelty committed by thugs like the respondent.” [PP v. Seah Kian Hock at [2]].*

6. This indicates the court’s broad-based interpretation and approach to acts of cruelty to animals and acknowledges that the definition of cruelty cannot be limited only to severe cases of brutality.
7. Given the heartening developments in relation to animal welfare law in Singapore, it is the view of the Society for the Prevention of Cruelty to Animals (“SPCA”) that with particular improvements, the legislative framework governing animal welfare and prevention of cruelty to animals can be further strengthened.
8. Since there has not been an extensive discussion of the interpretation or shortcomings of Section 42 of the *Singapore Act* in case law, it is imperative to look at advancements in legislations of foreign jurisdictions, particularly, the United Kingdom, Australia and New Zealand for guidance on how best to improve Singapore’s legislative framework.
9. The recommendations and amendments proposed in this report fundamentally focus on promoting the welfare of animals and on categorically moulding the legislation to prevent offences of cruelty from being committed. This progressive view is a step ahead of the traditional view, currently espoused by the *Singapore Act*, that offences are only committed (and therefore, can only be prosecuted) after animals have suffered and sufficient evidence is available to secure a conviction.

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10. It is the SPCA's view that the animal welfare legislation of Singapore should progressively transition towards an approach that protects animals' welfare by intervening before cruelty and suffering occur.
11. In this spirit, the following recommendations are made:-

### Recommendations relating to Offences against Animals

- (1) The **mental suffering of an animal** should be explicitly recognised under Sections 42(1)(d) and 42(1)(f) and causing mental suffering should be recognised as an offence under these sections.
- (2) An explicit **duty to exercise reasonable care** in the care and supervision of animals should be imposed upon any person responsible for or in charge of an animal (in addition to the owner) under Section 42(2). The scope of Section 42(2) should be expanded, making the breach of a duty of care a stand-alone offence governing the welfare of animals.

### Recommendation relating to Penalties under Section 42(1) of the *Singapore Act*

- (1) **The penalties under Section 42(1)** of the *Singapore Act* should be increased to a fine not exceeding \$20, 000 or to imprisonment not exceeding 2 years or to both. The increase in the quantum of penalties should be accordingly reflected in the relevant Rules and subsidiary legislation of the *Singapore Act*.

### Recommendation relating to the sale of animals

- (1) A condition **prohibiting sale of animals to persons below the age of 18** should be incorporated into the *Pet Shop Licence Conditions for Sale of*

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*Animals.*

### Recommendations relating to Court Orders

- (1) A **Prohibition Order** (prohibiting ownership, keeping or dealing with animals in any manner) should be included as a possible order by the magistrate under Section 44(1) in addition to possible penalties of a fine or imprisonment.
- (2) **Mental Health (Psychiatric or Psychological) Evaluation and Treatment** should be included as a possible order by the magistrate under Section 44(1) in addition to the possible penalties of a fine or imprisonment.

### General Recommendations

- (1) Part IV of the Animals and Birds Act (Cap 7) that deals with prevention of cruelty against animals as well as animal welfare matters (as well as all the relevant subsidiary rules and regulations), should be extrapolated to form a separate, stand-alone act, to be entitled the “**Animal Welfare Act**”.
- (2) A list of **prohibited acts** should be formulated to identify specific acts that endanger animal welfare or are known to cause suffering amounting to cruelty to animals. Commission of any of the acts in the prohibited list should attract a substantially deterrent penalty.
- (3) An **Animal Welfare Advisory Committee** should be established under the Singapore Act for the purpose of advising the Minister on animal welfare matters, including the development of subsidiary legislation, rules and regulations.
- (4) An **Animal Welfare Trust Fund** should be established from the money realised by way of fines imposed on offenders against the *Singapore Act*.



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12. The above-mentioned recommendations and proposed amendments will be discussed in detail below.

## II. Recommendations relating to Offences against Animals

### 1. MENTAL SUFFERING OF AN ANIMAL: The need to explicitly recognize mental suffering in Section 42

#### *i. Introduction*

13. The propensity of an animal to suffer has been duly recognised in Section 42(1). Section 42(1)(d) makes it an offence for any person to cause “any unnecessary pain or suffering” or for the owner to permit such a doing. Section 42(1)(f) makes it an offence for the owner to abandon the animal, causing it “unnecessary suffering or distress”.
14. While it is explicit that physical suffering, evidenced by physical injury, constitutes suffering, there is uncertainty with respect to whether mental/emotional suffering evidenced by an animal’s behaviour would constitute suffering. A number of cases that have come under the SPCA’s purview have escaped prosecution by the Agri-Food & Veterinary Authority of Singapore (“AVA”) or the police precisely due to the uncertainty with respect to whether the law covers an animal’s mental/emotional suffering and also due to the difficulties of proving such mental suffering where there is no palpable physical injury.
15. The mental suffering caused to an animal compromises its welfare. It is strongly recommended that Sections 42(1)(d) and 42(1)(f) be amended to clarify and specify that the infliction of unnecessary mental suffering would constitute an offence under the *Singapore Act*.

*ii. The Implicit Recognition of Mental Suffering in Sections 42(1)(d) and 42(1)(f)*

16. Section 42(1)(d) clearly prohibits the infliction of unnecessary *physical* suffering by virtue of the term “pain” which presumably refers to pain arising from physical injury. However, the reference to mental suffering is merely implicit in the use of the phrase “unnecessary suffering” in both Sections 42(1)(d) and 42(1)(f). This is insufficient.
17. Arguably, the reference to “unnecessary suffering” under Section 42(1)(d) enables the provisions to be applicable to both physical and mental suffering. Since there is a possibility of a restrictive interpretation to confine suffering to merely physical suffering, it is advantageous to stipulate the recognition of mental suffering (whether or not it is accompanied by physical suffering) to ensure a favourable outcome that would protect animal welfare.
18. The recognition of mental suffering is supported by Section 42(1)(a) which makes it an offence to “infuriate or terrify” an animal, indicating that causing mental suffering of these sorts, regardless of whether there is accompanying physical suffering, would constitute an offence. The reference to the term “distress” under Section 42(1)(f) strongly suggests that the mental suffering that an animal suffers as a result of abandonment is tangible and serious enough to demand that abandonment be made an offence. Section 42 embraces a holistic protection of animal welfare and accordingly, any interpretation of “suffering” under this section, should not be confined to physical suffering.
19. Although case law with respect to the interpretation of “unnecessary suffering” of an animal has not arisen (specifically as to whether unnecessary mental suffering falls under scope of suffering), an amendment would provide clarity in this respect and courts would be guided appropriately by the spirit of the provision in the future.

iii. *Justifications to explicitly recognise mental suffering in Section 42*

a. Scientific evidence and research indicate that an animal's welfare is strongly linked to and dependent on its mental well-being

20. Animal welfare is essentially a holistic convergence of both physical and mental welfare of animals.<sup>3</sup> Scientists have opined that animals' welfare is mainly dependent upon the animals' mental state.<sup>4</sup> Research conducted by scientists in the realm of animal science has unveiled a strong co-relation between mental well-being and the welfare of an animal. In particular, the term "suffering" in itself connotes the animal's mental state.<sup>5</sup>
21. However, animal welfare legislations across the world, including Singapore's *Animals and Birds Act 2002*, place undue emphasis on the animal's physical needs and physical suffering. Consequently, the mental suffering that could possibly be experienced by animals remains largely unaddressed. This deliberate evasion of mental suffering may be due to the perception that physical suffering is clearly identifiable in contrast to mental suffering of an animal, which is conceptually elusive and difficult to detect or fully understand.

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<sup>3</sup> This was recognized as early as 1965 by the influential Brambell Committee (Command Paper 2836, 1965) commissioned by the British Government. (H.W. Gonyou, "Why Study of Animal Behaviour is Associated with the Animal Welfare Issue" (1994) 72 J. Anim. Sci. 2171 at 2172, reproduced online at: <<http://jas.fass.org/cgi/reprint/72/8/2171.pdf>>.

<sup>4</sup> I.J. Duncan & J.C. Petherick, "The Implications of Cognitive Processes for Animal Welfare." (1991) 69 J. Anim. Sci. 5017; Marian S. Dawkins, "From an Animal's Point of View: Motivation, fitness and animal welfare." (1990) Behavioral and Brain Science, pp. 131-161.

<sup>5</sup> Jeffrey Rushen, "Using Aversion Learning Techniques to Assess the Mental State, Suffering, and Welfare of Farm Animals" (1996) 75 J. Anim. Sci. 1990 retrieved online: <<http://jas.fass.org>>.

b. Recognizing and ascertaining mental suffering: The Scientific Approach and the Logical Approach

22. There are difficulties with recognising and ascertaining mental suffering in animals. However, before these can be tackled, it is important to affirm the recognition of mental suffering in Section 42(1). Avoiding the fundamental issue of an animal's susceptibility to mental suffering due to the mere fact that it is comparatively difficult to identify, is an easy circumvention of the real problem. In light of scientific developments as well as the increasing importance and recognition that the Singapore society has been giving to animal welfare issues, the disregard for animals' mental welfare, while placing undue emphasis on physical welfare alone, points to a flaccid perception and treatment of animal welfare by the authorities.
23. With modern developments in science, there are various methods which can be used to ascertain whether an animal has suffered or is suffering mentally.<sup>6</sup> These methods should be studied and utilised by the AVA in relation to prosecutions to prove an animal's mental suffering. Singapore's legislation and animal welfare assessment procedures employed by AVA should be duly updated.
24. AVA, being the sole authority governing animal welfare, is in the position to commission an expert group to develop a welfare assessment system to identify species-typical behaviour and to identify abnormal behaviour in order to assess an animal's mental well-being. This will enable Singapore to keep up with modern developments, both in the realm of science and in terms of society's general recognition of the reality of an animal's mental suffering.

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<sup>6</sup> Marian S. Dawkins, "The Scientific Basis for Assessing Suffering in Animals" in Peter Singer (ed.), *In Defense of Animals* (New York: Basil Blackwell, 1985) pp. 27-40, retrieved online: <<http://www.animal-rights-library.com/texts-m/stampdawkins01.htm>>.

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25. Even if such scientific methods are considered inconvenient, complicated or resource-consuming by the courts or the AVA, a “logical approach” that considers the animal’s behaviour can be taken to objectively assess an animal’s mental suffering. It is widely recognised that the most obvious and pertinent indication that an animal is suffering mentally, is any abnormal behaviour exhibited by the animal.<sup>7</sup>
26. An animal’s abnormal behaviour can be a strong indicator of the animal’s mental suffering.<sup>8</sup> It has been observed that dogs suffering from acute stress (especially dogs confined in a small space for a prolonged period of time and given no attention or toys to be entertained with) will exhibit abnormal repetitive behaviour such as pacing, tail chasing and wall-bouncing.<sup>9</sup>
27. Obvious abnormal behaviour, when seen with signs of fear, anger or distress displayed by the animal, point to the mental suffering and poor welfare experienced by the animal.<sup>10</sup> Given that “suffering” alludes to a higher level of acute mental distress than just discomfort or mild distress<sup>11</sup>, it appears to be appropriate, in assessing whether mental suffering has occurred, to consider an animal’s abnormal behaviour in conjunction with signs of mental suffering and the situation, conditions or abuse the animal is being subjected to.
28. For example, when an animal cowers and attempts to hide in a corner while

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<sup>7</sup> The study of animal behaviour was recognised to be critical in animal welfare issues by the UK Brambell Committee 1965, see H.W. Gonyou, “Why the Study of Animal Behaviour is Associated with the Animal Welfare Issue” (1994) 72 J. Anim. Sci. 2171-2177; D. M. Broom “Animal Welfare: Concepts and Measurement” (1991) 69 J. Anim. Sci. 4165 at 4165; M. S. Dawkins, “Behaviour as a tool in the assessment of animal welfare.” (2003) *Zoology* 106(4): 383-387.

<sup>8</sup> Lilly N. Edwards, “Animal Well-being and Behavioural Needs on the Farm” in Dr. Temple Grandin, ed., *Improving Animal Welfare: A practical approach* (USA: Colorado State University) retrieved from <http://www.grandin.com/inc/improving.animal.welfare.ch8.html> on 16 December 2010.

<sup>9</sup> Beerda, B., Schilder, et. al. “Behavioral and Hormonal Indicators of Enduring Environmental Stress in Dogs” (2000) 9 *Animal Welfare* 49.

<sup>10</sup> Pieter R. Wiepkema, “Behavioral Aspects of Stress” in D. M. Broom & K. G. Johnson (eds.), *Stress and animal welfare* (Dordrecht, The Netherlands: Kluwer Academic, 1987) 113.

<sup>11</sup> Marian S. Dawkins, “From an animal’s point of view: motivation, fitness and animal welfare.” (1990) *Behav. Brain Sci.* 13: 1.

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whimpering or screaming in pain in response to being beaten, it is logical to assume that it is suffering mentally due to the fear and distress inflicted upon it. The act of cowering and hiding point to abnormal behaviour. The whimpering and screaming in pain indicate mental suffering experienced by the animal under the particular situation in which the animal was being beaten.

29. This example was seen in the widely publicised animal abuse video involving a dog named Butters that outraged the people of Singapore (see Annex A). The perpetrators had no intention to be cruel, according to AVA's press release, negating an offence under Section 42(1)(a). Also, Butters was said to be 'healthy and in good condition' despite the beating, implying that the dog did not "suffer" physically. Even if Butters can be said not to have "suffered" physically due to the lack of visible injuries, adopting a "logical approach", it is evident that Butters unnecessarily suffered mentally during the abuse captured in the video due to the perpetrator's unreasonable act of beating. The perpetrator's act would be an offence, at least under Section 42(1)(d). Such an interpretation would have warranted at least the imposition of a fine, rather than just a "stern warning" that was given to the perpetrator.
  
30. Another example often encountered by the SPCA is situations where dogs are cramped in cages that are too small for nearly 24 hours a day or left in otherwise extremely poor conditions. If the dogs subjected to such conditions appear to be well and normal physically (i.e. their growth is not stunted and they are not dying of starvation) they are deemed to not have suffered physically even though their freedom of movement has been severely restricted. The owners escape even a minimum fine. However, dogs kept in such conditions often exhibit abnormal behaviour such as depression and resignation (see Annex B). This suggests that the animals may possibly have suffered mentally. A case in point would be Dimples, the beagle (see Annex C). Dimples' snout and paws were tightly secured with tape, causing abrasions, and he was locked out in the balcony. Such treatment caused obvious mental suffering to Dimples, whose movement was completely restricted, but Dimples' owner received

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- only a compound fine.
31. There is a rational basis to utilize behavioral observations of animals in assessing animal welfare. While the “scientific approach” entails the development of precise mechanism of welfare assessment by a technical expert group, the “logical approach” relies on common sense to detect abnormal behaviour in animals in light of the conditions, acts and/or abuse they are being subjected to.
32. In adopting the “logical approach”, it is suggested that an offence for causing mental suffering be recognised if it is apparent on the face of the facts. Where it is not immediately apparent, the court should be satisfied that on a balance of probabilities, taking into account the animal’s abnormal behaviour (if any) and the conditions or abuse it was subjected to, the animal has suffered mentally at the time of the abuse and/or for a period of time after the abuse.
33. While this is a suggestion, there is a plethora of methods and ways to recognise and ascertain mental suffering in animals. Any concerns regarding the difficulties involved in the recognition or ascertainment of an animal’s mental suffering can be overcome by the authorities with effort channelled into relevant studies and research. Consulting or appointing animal behaviour specialists (such as canine behaviour specialists) to aid in such studies or to aid with investigation of specific cases might be useful. However, for such efforts to be seriously taken, it is crucial to accept and recognise the reality of mental suffering of an animal.
- c. The OIE and foreign jurisdictions have recognized an animal’s mental well-being as an essential component of the animal’s holistic welfare
34. The internationally recognised OIE (World Organisation of Animal Health) Guiding Principles for animal welfare recognises the importance of protecting animal welfare,



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including protecting an animal's mental health. The OIE has accorded recognition to the "Five Freedoms" which provide "valuable guidance in animal welfare".<sup>12</sup>

35. "The Five Freedoms" are defined as follows:

- (1) Freedom from hunger and thirst - by ready access to fresh water and a proper diet to maintain full health and vigour;
- (2) Freedom from discomfort - by providing an appropriate environment including shelter and a comfortable resting area;
- (3) Freedom from pain, injury or disease - by prevention or rapid diagnosis and treatment;
- (4) Freedom from fear and distress - by ensuring conditions and treatment which avoid mental suffering; and
- (5) Freedom to express normal behaviour - by providing sufficient space, proper facilities and company of the animal's own kind.<sup>13</sup>

36. The fourth freedom expressly refers to fear and distress, which denote specific forms of mental suffering. The use of the word "distress" in Section 42(1)(f) satisfies this fourth freedom. The absence of fifth freedom can be a possible contributing factor to an animal's mental suffering.<sup>14</sup> For clarity, it will be optimal if the term "unnecessary suffering" is appended with the phrase "mental or physical". With respect to Section 42(1)(d), the term "suffering" stands alone and clarity is required.

37. While the "Five Freedoms" were initially formulated so as to address concerns over the welfare of farm animals, these freedoms have been utilized in various other

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<sup>12</sup> Article 7.1.2 of The OIE Terrestrial Animal Health Code retrieved online: [http://www.oie.int/eng/normes/mcode/en\\_chapitre\\_1.7.1.pdf](http://www.oie.int/eng/normes/mcode/en_chapitre_1.7.1.pdf)

<sup>13</sup> United Kingdom Farm Animal Welfare Council, retrieved online: <http://www.fawc.org.uk/freedoms.htm>.

<sup>14</sup> Harold W. Gonyou, "Why the Study of Animal Behaviour is Associated with the Animal Welfare Issue" (1994) 72 J. Anim. Sci. 2171 at 2172 retrieved online from: [jas.fass.org](http://jas.fass.org).

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- legislations concerning non-farm animals. Notably, these “Five Freedoms” have been recognised by the *UK Animal Welfare Act 2006*. The UK Act defines “suffering” as physical or mental suffering and states that “related expressions shall be construed accordingly” (Section 62(1)).
38. Australia’s animal welfare legislations are guided by OIE Guiding Principles, particularly the “Five Freedoms”.<sup>15</sup> Accordingly various Australian states explicitly recognise mental suffering in their animal welfare legislations. For instance, the *Queensland Animal Welfare Act 2001* defines pain as including “distress and mental or physical suffering”.<sup>16</sup> Similarly, Section 3 of *South Australia’s Animal Welfare Act 1985* defines serious harm as “harm that consists of, or results in, serious and protracted impairment of a physical or *mental* function.” [Emphasis added].
39. There is a strong impetus to align Singapore’s legislation with these jurisdictions in explicitly recognising mental suffering as a component of “suffering”. Explicit recognition of an animal’s ability to experience mental suffering would be consistent with Singapore’s membership in the OIE and it would reflect Singapore’s commitment to protecting animal welfare.
40. Most significantly, the proposed amendment would clarify the actual scope of Section 42(1)(d) and Section 42(1)(f). Instances where an animal, despite the absence of physical suffering or injury, has suffered mentally as a consequence of an act/omission or abuse committed by an individual, would rightfully be brought under the fold of Section 42(1)(d).

### *iv. Conclusion*

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<sup>15</sup> Australian Government Department of Agriculture, Fisheries and Forestry, Australian Animal Welfare Strategy, online: <<http://www.daff.gov.au/animal-plant-health/welfare/aaws/online/framework/international>>.

<sup>16</sup> Schedule Dictionary, Queensland Animal Care and Protection Act 2001.

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41. The scope of “mental suffering” is wider than specifically having “infuriate(d) or terrif(ied)” an animal (Section 42(1)(a)) or causing “distress” (Section 42(1)(f)). Consequently, Section 42(1)(d) would encompass scenarios that do not fall under Section 42(1)(a) or Section 42(1)(f). Clarifying and widening the scope of mental suffering of an animal would ensure that Singapore’s legal framework provides a comprehensive and holistic protection of animal welfare.
42. Infliction of mental suffering, even without any accompanying physical injury, should be explicitly prohibited and be given equal weight as physical suffering, since the infliction of mental suffering inevitably involves a huge compromise in the welfare of an animal.
43. It is suggested that the current Section 42(1)(d) might be amended as follows:-
- “Any person who by wantonly or unreasonably doing or omitting to do any act, causes any unnecessary pain or suffering, whether mental or physical, or, being the owner, permits any unnecessary pain or suffering, whether mental or physical, to any animal”*
44. It is suggested that the current Section 42(1)(f) might be amended as follows:-
- “Any person being the owner of any animal, abandons the animal without reasonable cause or excuse, whether permanently or not, in circumstances likely to cause the animal any distress or unnecessary suffering, whether mental or physical, or causes or permits the animal to be so abandoned...”*

**2. RECOGNISING A DUTY TO EXERCISE REASONABLE CARE:  
Widening the scope of Section 42(2)**

*i. Introduction*

45. Section 42(2) of the *Singapore Act* recognises the failure of an owner to exercise reasonable care and supervision with respect to an animal as being an offence that adversely affects the animal’s welfare. However, Section 42(2) as it currently stands applies “for the purposes of subsection (1)” and only to “an owner” who has failed to exercise reasonable care and supervision in respect of an animal.
46. Although Section 2 of the *Singapore Act* defines “owner” as including “any person for the time being in charge of any animal or bird and any person for the time being in occupation of any building”, amending Section 42(2) to specifically reflect this definition would provide legislative clarity and would ensure an appropriate interpretation and application of the term “owner”.
47. It is strongly recommended that Section 42(2) be amended to assume the status of a stand-alone “welfare offence” that imposes specific positive obligations, in line with the *UK Animal Welfare Act 2006*. Accordingly, a duty to exercise reasonable care and supervision should be imposed on persons responsible for or in charge of any animal at the material time.
48. The care and supervision of an animal may temporarily or for prolonged periods be relegated to a party other than the owner. In such circumstances, offences committed by people other than the owner, such as a person under whose care the owner left the animal, will rightly fall under the purview of the section. In view of protecting the welfare of animals, it would be beneficial to explicitly impose an objective duty of

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reasonable care on persons responsible for an animal. It would also be beneficial to specify the obligations that the person in charge must fulfil at the bare minimum in order to discharge the duty of care imposed on her.

ii. *Justifications to impose a duty of care on persons in charge of an animal and to stipulate specific obligations*

a. Other jurisdictions explicitly impose a duty of care on persons other than the owner

49. The recommendation, to make Section 42(2) a stand-alone offence by imposing a positive obligation on persons in charge of animals to meet minimum standards of care, is supported by legislations and legislative amendments in jurisdictions worldwide which have adopted similar approaches.
50. The *UK Animal Welfare Act, 2006* refers to a “person responsible for an animal” whether temporarily or permanently (Section 3). While the *UK Animal Welfare Act 2006* generally leaves the determination of whether a person is “responsible” for an animal to the courts’ discretion, Section 3 stipulates certain circumstances under which a person is considered to have assumed responsibility for an animal. These include instances where the person is in charge of or owns the animal or where the person is responsible for a child who is in turn responsible for an animal.
51. Similarly, the various Australian states recognise the concept of a person “in charge of” an animal. For instance, the offences detailed in the *Australian Capital Territory’s Animal Welfare Act 1992*<sup>17</sup>, *New South Wales’ Prevention of Cruelty to Animals Act*

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<sup>17</sup> See for example, section 8.

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- 1979<sup>18</sup> and the *Northern Territory's Animal Welfare Act*<sup>19</sup> capture “a person in charge of an animal” which covers a wider range of persons culpable, than just the owner.
52. Article 4 of the *European Convention for the Protection of Pet Animals*<sup>20</sup> does not restrict the provisions protecting the welfare of the animal to merely owners but to “any person who keeps a pet animal or who has agreed to look after it”.
53. In a similar vein, Section 446(1)(b) of the *Canadian Criminal Code* extends liability for failure to provide reasonable care and supervision to “the person having the custody or control of a domestic animal”.
54. Evidently, a number of jurisdictions worldwide have expanded the scope of persons liable for animal offences beyond those who are “owners” to those who may have temporary custody of the animal or ought to have been regarded as being responsible for the animal. Accordingly, persons responsible are liable for neglecting or failing to exercise reasonable care with respect to animals under the respective legislations.
55. The protection of animal welfare is a social responsibility. It is only right that an explicit duty to exercise reasonable care and supervision be imposed on people responsible for an animal.
- b. Specifying the basic physical, health and behavioural needs of animals that must be met by persons in charge would provide clarity and optimality as to the standard of care and obligations imposed on persons in charge.

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<sup>18</sup> See for example, section 5.

<sup>19</sup> See for example, Section 6.

<sup>20</sup> The Convention can be accessed online at <<http://conventions.coe.int/Treaty/en/Treaties/Html/125.htm>>. The Convention has been ratified by 21 European Union States.



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56. There are inherent limitations as to what constitutes the standard of care currently imposed. The reference to “any person” in Section 42(1) would mean that non-owners can also be liable for acts specified in Section 42(1). Despite this, at present, the obligations imposed on persons in charge of an animal are narrow and insufficient to holistically protect an animal’s welfare.
57. With respect to Section 42(1)(c), a person in charge of an animal in confinement will only commit an offence if the animal is not provided sufficient food and water. The person in charge has no other responsibilities in ensuring the animal’s welfare (e.g. ensuring proper quality of food and water provided). Other omissions/acts contributing to an animal’s suffering or poor welfare (such as not providing a proper living or resting environment) will not be sufficiently covered.
58. Even if there is no unnecessary pain or suffering caused to an animal to warrant an offence under Section 42(1)(d), the person in charge may still have not exercised reasonable care or supervision with respect to the animal. For these reasons, specific obligations must be imposed on persons responsible for the care of animals.
59. In line with the “Five Freedoms” detailed above<sup>21</sup>, the following positive obligations should be imposed on the person in charge and should be included in the standard of care expected of the person in charge:-
- (1) Providing appropriate and sufficient food and water for the animal;
  - (2) Providing appropriate living conditions for the animal;
  - (3) Taking all reasonable steps to mitigate harm that is already being suffered by the animal, including seeking veterinary treatment;
  - (4) Ensuring that the animal has the opportunity to express natural behaviour; and

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<sup>21</sup> See Paragraph 34.

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- (5) Ensuring that the animal is handled appropriately in a manner that causes no or minimal distress to the animal.
60. Firstly, the use of the term “appropriate” in addition to the term “sufficient” (as it presently exists in Section 42(1)(c)) in relation to the provision of food and water would ensure that the quality (in addition to the quantity) of food and water provided to the animal is of acceptable standards.
61. Secondly, requiring that the person in charge should provide appropriate living conditions for the animal, ensures that the animal lives in a suitable and appropriate environment. A suitable and appropriate enclosure or cage (or other form of living environment) would not physically or mentally harm an animal. Appropriate living conditions would include providing sufficient and appropriate space for the animal to move around comfortably, and ensuring that the living area does not pose any hazards to the animal’s safety and health. Further, the living environment should be kept reasonably clean.
62. Thirdly, the obligation to take reasonable steps to mitigate harm encompasses a wider range of duties than an obligation to simply provide veterinary treatment for disease or injury. It would, for instance, include a duty to remove or alleviate the physical conditions (such as a particular type of living environment that is causing physical harm) that may be the cause of the harm.
63. Fourthly, animals should be allowed to exercise their natural behaviours. For example, in the case of dogs, giving sufficient exercise or an opportunity to run free in a designated area everyday is necessary to allow dogs to naturally expend their energy. Suppressing natural behaviours is scientifically shown to be a significant cause of mental harm to animals.<sup>22</sup>

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<sup>22</sup> Marian Stamp Dawkins, “From an Animal’s Point of View: Motivation, fitness and animal welfare.” Retrieved online at <http://www.bib.uab.es/veter/expo/benestar/Behavioral.pdf>

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64. Finally, persons in charge of animals are also often in charge of handling them, for purposes of transport or any other matter. In such situations, care must be taken to not unnecessarily distress or alarm the animal or cause physical injuries in the course of handling.
65. With respect to enforcing the duty of care obligations, the mechanism of issuing “improvement notices” (as seen in Section 10 of the *UK Animal Welfare Act 2006* and as currently informally implemented in Singapore with respect to pet shops and pet farms) would be a beneficial system to formally implement in Singapore. This system is especially useful in protecting an animal’s welfare in situations when the animal’s welfare needs are not being met adequately even though the animal cannot be said to be suffering, either physically or emotionally. The formal improvement notices will allow persons responsible for the animal to rectify the problems identified by the authorities within a specified time frame. Only upon failure to comply with the improvement notice would an offence for breaching duty of care be prosecuted.
66. It must be noted that where an animal is already suffering, either mentally or physically, because its welfare needs are not being met, an imposition of a fine or prosecution would be in order. An improvement notice at this point is inappropriate and will not be useful in protecting the animal’s welfare or preventing harm to that animal.
- c. Other jurisdictions employ the “Five Freedoms” as a basis for the obligations that must be fulfilled by persons in charge in order to discharge their duty of care.
67. Section 9 of the *UK Animal Welfare Act 2006* imposes an explicit duty of care on persons responsible for the care of animals. Section 9(2) of the *UK Animal Welfare Act 2006* specifies obligations, relating to the animal’s needs, imposed on the person

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- in charge. These are significantly similar in substance to the “Five Freedoms” and were based on them. The *UK Animal Welfare Act 2006* also ensures that the list of obligations is not exhaustive by stating that the needs of an animal “include” the needs stated in Section 9(2).
68. In particular, Section 9(3) stipulates that the purpose for which the animal is kept (e.g. as a companion animal or as a breeding animal for commercial purposes) would also be a consideration taken into account when assessing the appropriate standard of care and whether the duty of care was discharged accordingly. This would ensure an appropriate balance between protecting animal welfare and not imposing too heavy a burden on persons responsible for animals.
69. Sections 10 to 12 of the *New Zealand Animal Welfare Act 1999* impose obligations to take reasonable care in the specified circumstances on persons in charge or owners of animals. Section 4 of the *New Zealand Animal Welfare Act 1999* identifies the basic physical, health and behavioural needs of animals. These include “proper and sufficient food and water”, “adequate shelter” and “opportunity to display normal behaviour patterns”, among others which are substantial reflections of the “Five Freedoms”.
70. Notably, Section 13 of the *New Zealand Animal Welfare Act 1999* stipulates that contravening the duty of care obligations imposed by Sections 10 to 12 would constitute strict liability offences for which intention to commit the offences need not be proven by the prosecution. Given the difficulty faced by the prosecution and the AVA of obtaining and producing evidence to secure a conviction on cruelty to animal offences, it may be useful to consider formulating the breach of one’s duty of care as a strict liability offence.



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71. Further, in New Zealand, Codes such as the Code of Recommendation and Minimum Standards for the Sale of Companion Animals<sup>23</sup>, the Animal Welfare (Companion Cats) Code of Welfare 2007<sup>24</sup> and the Animal Welfare (Companion Dogs) Code of Welfare 2010<sup>25</sup> (among others) supplement the main *Animal Welfare Act 1999*. The Codes provide minimum standards that must be met. This aids in determining if the person responsible has fully discharged his/her duty of care.
72. A similar approach based on the “Five Freedoms” is also found in the animal welfare legislations of the various Australian states. For example, Section 5(3) of the *New South Wales Prevention of Cruelty to Animals Act 1979* imposes duties to exercise reasonable care, control and supervision to prevent commission of an act of cruelty, to take steps to alleviate pain and suffering and to provide veterinary treatment. Section 8 requires proper and sufficient shelter, food and water to be given by the person in charge. Section 9 requires persons in charge to ensure that animals in confinement are provided adequate exercise.
73. Section 17 of *Queensland Animal Care and Protection Act 2001* similarly imposes a duty of care on persons in charge of animals. The obligations imposed include taking reasonable steps to provide sufficient and proper food, water and living conditions, allowing the animal to display normal behaviour patterns and ensuring appropriate handling of the animal. As in the case of New Zealand, the relevant legislations in Australian states are supported by various Codes of Practice that are specific to different types of animals. These Codes determine whether the person responsible for the animal has discharged his/her duty of care.
74. A similar approach should be adopted in Singapore given the merits of Section 9 and Section 10 of the *UK Animal Welfare Act 2006*. An approach that penalises an owner for not having exercised reasonable care or supervision even before the animal in

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<sup>23</sup> Source retrieved online: <http://www.biosecurity.govt.nz/animal-welfare/codes/companion-animals/index.htm>

<sup>24</sup> Source retrieved online: <http://www.biosecurity.govt.nz/animal-welfare/codes/companion-cats>

<sup>25</sup> Source retrieved online: <http://www.biosecurity.govt.nz/animal-welfare/codes/dogs>

question suffers, is a highly commendable one as suffering is prevented and the animal is protected from harm. Prevention of animal suffering is surely more worthwhile than prosecuting a perpetrator after harm is done. It is also necessary to recognise that brutal cruelty is not the only way to harm an animal and lapses in the way that it is cared for and supervised can seriously harm an animal as well.

75. The *Pet Shop Licence Conditions* (for the different types of animals sold) that are already in place in Singapore are an encouraging step towards recognising and imposing specific obligations and a general duty of care on persons responsible for the care of animals that are put up for sale. An alternative suggestion is to formulate “codes of welfare” that are species-specific and that apply to companion animals as well as to animals kept for commercial purposes. These “Codes” can then supplement a general duty of care provision to be amended into the *Singapore Act*. This detailed approach will, as in the case of New Zealand and Australia, expedite and simplify the legal analysis as to whether the duty of care was breached by the person in charge in the particular circumstances.

### *iii. Conclusion*

76. Section 42(2) needs to be amended to provide stronger protection for animal welfare. There should be no discrepancy in the standards of care attributed to persons in charge of an animal and owners of that animal. There is also no reason to not expect a person to exercise reasonable care (ascertained objectively) even if the animal may not necessarily have suffered yet. This amendment will serve as a stanchion to the existing “welfare offences”.
77. Additionally, amending Section 42(2) and imposing specific obligations, may have wider repercussions, especially with respect to pet farms and pet groomers. Pet farm owners and personnel as well as pet groomers are responsible for many dogs (but they may not necessarily own them) and their responsibilities include doing more than

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- merely supplying the animals with sufficient food and water (as stipulated in Section 42(1)(c)). In Singapore, pet farm owners, breeders and groomers have drawn flak for their irresponsible practices that harm or could potentially harm animals in their care and control.
78. One significant effect that flows from the proposed amendment is that there would be a strong deterrent for pet farm owners and personnel as well as pet groomers from failing to exercise reasonable care and supervision in relation to animals under their care. This would be in addition to deterring the commission of acts specified in Section 42(1).
79. It is strongly recommended that the concept of “responsibility” by all persons in charge be explicitly incorporated into Section 42(2). It is ideal if Section 42(2) exists independently as a welfare offence. Further, it is recommended that the basic obligations be specified to provide clarity as to the standard of care required.
80. It is suggested that the current Section 42(2) be amended as follows, having regard to the discussion above:-
- (1) *A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.*
  - (2) *For the purposes of this Act, the obligations of the person in charge shall be taken to include—*
    - (a) *providing appropriate and sufficient food and water;*
    - (b) *providing appropriate shelter, living conditions or environment;*
    - (c) *taking all reasonable steps to mitigate harm that is already being suffered by the animal, including seeking veterinary treatment;*
    - (d) *ensuring that the animal is provided with opportunities to exhibit normal and natural species-specific behaviour patterns; and*
    - (e) *ensuring that the animal is handled appropriately in a manner that causes no or minimal distress to the animal.*
  - (3) *The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular—*
    - (a) *any lawful purpose for which the animal is kept, and*

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*(b) any lawful activity undertaken in relation to the animal.*

### **III. Recommendations relating to the Maximum Penalty under Section 42(1) of the Singapore Act**

#### **1. The Maximum Penalty under Section 42(1) of the Singapore Act should be increased.**

##### *i. Introduction*

81. In order for the courts to impose a sentence commensurate with the offence of cruelty to animals, the maximum sentence under Section 42(1) of the *Singapore Act* should be increased to a fine not exceeding \$20, 000 or to imprisonment not exceeding two (2) years or to both. The increase in the quantum of penalties should be accordingly reflected in the relevant Rules and subsidiary legislation of the *Singapore Act*.

##### *ii. Justifications*

- a. The current maximum sentencing level is inadequate and does not reflect the gravity of acts of cruelty against animals.
82. The current sentencing levels are clearly inadequate to serve as effective deterrents and do not reflect the severity or seriousness of acts of cruelty to animals.
83. The maximum sentencing levels for offences stipulated in Section 42 were significantly raised by an amendment in 2002. However, sentencing practices by magistrates have not been revised accordingly. Jail terms, if and when imposed, continue to range between one week for “lesser” offences to a maximum of three or

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four months for extreme cases of cruelty (this was the sentencing practice even before the 2002 amendment) even though the maximum term of imprisonment has been increased from six (6) months to twelve (12) months. With the exception of the serial cat-abuser, David Hooi<sup>26</sup>, no offender has been sentenced to beyond six months of imprisonment, even in the most gruesome cruelty cases.

84. Evidently, even with the 2002 amendment, the current low maximum sentencing levels seriously limit the judiciary's ability to send stern messages to society as to the seriousness of animal cruelty offences. If the maximum imprisonment term is merely one year, the actual sentence that is imposed would only have minimal impact on the offender when considerations such as whether it was the offender's first offence are taken into account.
85. With a more stringent maximum sentencing level, appropriate sentences that befit the gravity of an offence would be more likely to be imposed. First-time offenders who commit aggravated acts of cruelty will no longer serve just two or three months in prison merely because it was their first offence. At the same time, the option of preventive detention will be available to the courts in the case of repeat offenders who pose a threat to animals even upon release<sup>27</sup>.
86. The AVA's practice of merely giving warnings and imposing moderate fines may only embolden offenders and encourage the view that cruelty to animals is not a serious offence. There is very strong public sentiment that indicates extreme dissatisfaction with respect to the punishments meted out to the offenders.<sup>28</sup> Sentences imposed should reflect the gravity of the offence and the criminality of the actual offender. However, current sentencing practices are not sufficient in this regard.

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<sup>26</sup> The maximum sentence of 1 year imprisonment was imposed. See *PP v. Hooi Yin Wang David* [2006] SGDC 204.

<sup>27</sup> See *PP v. Hooi Yin Wang David* [2006] SGDC 204 at [20].

<sup>28</sup> For example, in the case of Butters, there was huge uproar online upon AVA's statement that the owners of Butters were given nothing more than a stern warning.

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87. In contrast, it is notable that offences such as vandalism, that do not involve torturing or causing harm or suffering to a living being, have a substantial and deterrent maximum penalty<sup>29</sup>. It is unacceptable that if a living, sentient animal is tortured and suffers immensely, the offender faces a maximum of 1 year imprisonment and/or a \$10,000 fine. It is undesirable and against public sentiment to ascribe a greater value and importance to material property than to animal welfare. The maximum penalties must be revised to reflect the importance and priority level that the general public attributes to animal welfare and cruelty issues and must be proportionate to the severity of the offence in question.

- b. Together with appropriate sentencing guidelines, increasing the maximum sentencing level will best ensure that justice is upheld and the sentence is an effective deterrent.

88. To best ensure that sentences appropriately reflect the gravity of the offence and the moral culpability of the offender, it is suggested that Singapore emulate the sentencing guidelines that have been formulated in jurisdictions like the UK, USA and Australia and make these guidelines available to the public. Sentencing guidelines depending on various factors such as the severity of the crime, would significantly aid magistrates in meting out just sentences. Consistency in sentencing will also be achieved.

89. In the UK, Magistrates Court Sentencing Guidelines<sup>30</sup> for animal welfare and cruelty offences ensure that an appropriate sentence is imposed depending on the crime committed. A non-custodial sentence is imposed only in cases where little or no actual injury is caused to the animal. Three months' imprisonment is the appropriate

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<sup>29</sup> Section 3 of the Vandalism Act (Cap. 341) indicates that anyone guilty of vandalism shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment up to a maximum of 3 years and, subject to certain provisions of the Criminal Procedure Code 2010, shall also be punished with caning (with not less than 3 strokes and not more than 8 strokes).

<sup>30</sup> Retrieved online:

[http://sentencingcouncil.judiciary.gov.uk/docs/web\\_sgc\\_magistrates\\_guidelines\\_including\\_update\\_1\\_2\\_3\\_web.pdf](http://sentencingcouncil.judiciary.gov.uk/docs/web_sgc_magistrates_guidelines_including_update_1_2_3_web.pdf) [at page 22 of Sentencing Guidelines].



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sentence where the animal has suffered more than minimum injury or fright, or where neglect of the animal has been prolonged. The more serious offences such as attempts to kill or torture attract harsher sentences. Aggravating features (such as whether the offender has used a weapon or has ignored previous warnings as well as the extent to which the animal has suffered) serve to increase the sentences.

90. In South Australia (whose animal welfare laws are among Australia's most progressive and modelled-after), the *Animal Welfare Act 1985* makes a distinction between aggravated cruelty (S. 13(1)) and ill-treatment (where there is no intention to cause the suffering of the animal). The aggravated offence attracts a maximum penalty of \$50,000 or imprisonment for four (4) years while the "lesser" offence attract a maximum penalty of \$20,000 or imprisonment for two (2) years. Even welfare offences are included in the definition of "ill treatment" and are considered a "lesser" offence. The only type of situation in which nothing more than a fine is imposed is when no harm or suffering is caused to the animal yet, such as when animal welfare notices are not conformed to (Section 31B). Similar approaches are adopted in other Australian states such as Victoria, Queensland and the Australian Capital Territory, which distinguish between cruelty and aggravated cruelty. In these jurisdictions, aggravated cruelty attracts a maximum of two (2) years imprisonment while the lesser offence of cruelty attracts a maximum of one (1) year.<sup>31</sup>
91. In the USA, a number of states impose harsher sentences on aggravated cruelty, with maximum sentencing levels pegged at a higher level than sentencing levels for other offences. Illinois imposes a fine of up to \$25,000 and/or imprisonment up to three (3) years for the first offence of aggravated animal cruelty and subsequent offences attract

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<sup>31</sup> Victoria Prevention of Cruelty to animals Act 1976: s. 9 (1) relating to cruelty imposes a maximum sentence of 1 year imprisonment or 120 penalty units. S. 10 (1) relating to aggravated cruelty imposes a maximum sentence of 2 years or 240 penalty units. The Queensland Animal Care and Protection Act 2001, S.18 imposes a maximum penalty of 1000 penalty units or 2 years imprisonment for cruelty to animals. Australian Capital Territory Animal Welfare Act1992, S. 7 on cruelty, imposes a maximum sentence of 100 penalty units or 1 year imprisonment. S 7A on aggravated cruelty which involves intentionally causing death/serious injury to animal imposes a maximum sentence of 200 penalty units and 2 years imprisonment. S. 8 relating to welfare offences such as failing to provide adequate and appropriate food, water and shelter, imposes a maximum sentencing level of 100 penalty units and 1 year imprisonment.



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a longer maximum jail term (up to five years)<sup>32</sup>. Animal torture attracts a maximum fine of \$25,000 and/or imprisonment up to five (5) years<sup>33</sup>. The lesser offence of cruelty, however, attracts a maximum fine of up to \$2500 and/or imprisonment for less than one (1) year. A similar approach is adopted in Maine, Michigan and Oregon, among other states.

92. Sentencing guidelines that adopt the international norms would ensure that Singapore is not underrating the importance of animal welfare, by providing lax punishments to offenders. The sentencing guidelines have to be effective in pegging sentences at an appropriate level such that they serve as deterrents and as just consequences for the offence committed. To do so, there first has to be a greater maximum fine and longer duration of maximum imprisonment than is currently available.

### *iii. Conclusion*

93. The current maximum penalties are a limitation to upholding justice for the animals that have suffered and to meting out a punishment proportionate to the offender's act. This limitation has to be removed and a more stringent maximum penalty level of \$20,000 fine and/or two (2) years imprisonment should be imposed. This amendment will allow for the recognition of the different degrees and severity of cruelty in addition to allowing for aggravating factors to be taken into account. Fairer outcomes are to be expected as a result of the suggested amendments to the maximum penalty levels.
94. An increase in the maximum penalties for offences under Section 42(1) (as well as in the relevant subsidiary rules associated with the Singapore Act) together with the use of appropriate sentencing guidelines would assist the judiciary to step down strongly on offences of cruelty to animals. This would send the unequivocal message to the

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<sup>32</sup> Illinois Humane Care For Animals Act (510 ILCS 70/1), Section 3.02, retrieved online from: <http://statutes.laws.com/illinois/chapter510/1717>.

<sup>33</sup> Ibid. Section 3.03.



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Singapore society that animal cruelty is a serious matter that will not be tolerated or treated lightly.

#### IV. Recommendations relating to the Sale of Animals

##### 1. A condition prohibiting sale of animals to persons below the age of 18 should be incorporated into the Pet Shop Licence Conditions for Sale of Animals

###### *i. Introduction*

95. The display, sale and licensing matters relating to pet shops are governed by the *Animals and Birds (Pet Shop and Exhibition) Rules 2004* as well as the *Pet Shop Licence Conditions for Sale of Animals* [“Licence Conditions”] issued by the AVA.
96. The role of the Licence Conditions is evidently to ensure the welfare of animals sold as pets. The Licence Conditions regulate matters including housing, environment, health and management of these animals. Where issues that may possibly compromise the welfare of pets arise at the point of sale, it is most appropriate that they be promptly addressed in the Licence Conditions.
97. It is strongly recommended that sale of all animals to persons under 18 should be strictly prohibited and this prohibition should be included in the Licence Conditions. This prohibition is, in principle, in line with the AVA’s primary strategy of dealing with abandonment/abuse of pet animals: to educate the public on responsible pet ownership.

###### *ii. Justifications for the Prohibition*

- a. The Prohibition will bring the Licence Conditions in line with the international approach.
98. Inclusion of the prohibition will duly recognise unrestricted sale of animals to under-aged purchasers as being a prominent cause of pet abandonment and abuse. The sale of animals to under-aged persons has been curbed in jurisdictions worldwide, most notably in the United Kingdom. The impetus for such a prohibition lies in the effectiveness of intervening at the early stage of sale in countering issues of pet abandonment, neglect and abuse, which are intricately linked to impulsive purchases by youth.
99. Section 11 of the *UK Animal Welfare Act (2006)* prohibits transfer of animals by way of sale or prize to persons under 16. Subsections (1) and (2) prohibit vendors from selling animals to any person under 16 in circumstances where they have reasonable cause to believe that the person is aged below 16. The prohibition applies equally to the direct sale of an animal and to any indirect sale that may accompany an otherwise legal transaction.<sup>34</sup>
100. The *European Convention for the Protection of Pet Animals* (CETS No. 125) [concluded in Strasbourg in 1987] stipulates that “[n]o pet animal shall be sold to persons under the age of sixteen without the express consent of their parents or other persons exercising parental responsibilities.”<sup>35</sup> This requires a parent to provide express consent directly to the seller at the point of purchase.
101. The *European Convention* and the *UK Act* place the responsibility of ensuring the animal’s welfare on the vendor at the point of purchase. In contrast, some countries place the responsibility on adults responsible for the children purchasing animals. For

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<sup>34</sup> UK Animal Welfare Act, 2006 Explanatory Notes.

<sup>35</sup> Article 6 – Age limit on acquisition.

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- example, § 6 of the *Norway Animal Welfare Act* stipulates that “[p]arents and carers with parental responsibility may not allow children less than 16 years of age to have independent responsibility for animals.” This places the responsibility of ensuring the animal’s welfare on parents upon purchase. The key point to note, regardless on whom the responsibility falls, is the emphasis on the need for adult responsibility in the care and supervision of animals.
102. It is evident that jurisdictions across the world have accepted that sale of animals and relegating complete responsibility of animals to under-aged persons are fundamental causes of various problems relating to animal welfare and cruelty. This warrants inclusion of age limitations in the primary legislation governing animal welfare and prevention of cruelty.
103. In Singapore’s case, the proposal is, notably, not to include such a provision in the main *Animals and Birds Act 2002*, but to include it as a prerequisite in the Licence Conditions regulating pet shops. Although this might underplay the necessity of such a prohibition, inclusion in the Licence Conditions will be a significant move that will encourage pet shops to play an active role in ensuring the welfare of the animals they sell. The prohibition will have far-reaching impact if it were to be strictly enforced. Further, from a regulatory and enforcement perspective, it would be significantly more effective to impose a condition on the pet shops at the point of sale rather than to impose a condition on parents of children acquiring animals after sale (like in Norway’s case).
104. The current inadequacy of the Licence Conditions in light of international prohibitions of sale of animals to under-aged persons will be accordingly cured and the requisite update will strengthen the role of Licence Conditions in protecting and ensuring the welfare of pets being sold.
- b. The Prohibition will reinforce the importance of responsible

### pet ownership and animal welfare.

105. Persons below 18 may possibly lack the maturity and/or the financial resources required to exercise reasonable care and supervision with respect to the animal(s) purchased. This notion of lack of maturity is recognised in various other prohibitions such as smoking and drinking. Such activities among those under the age of 18 are controlled by prohibiting sales of cigarettes and alcohol. If the law regards youth below the age of 18 to be ill-equipped to take care of themselves, it is not prudent to expect them to take care of another life.
106. Given the proliferation of pet shops in Singapore and the concomitant rise in animal abandonment/abuse cases, the time is ripe to introduce a clause to prohibit sale of animals to persons under 18. This would ensure that people purchasing animals are of a certain maturity and would have the ability to exercise reasonable care in nurturing the animal.
107. Whether or not the “norm” for young people in Singapore is to approach parents before buying animals, the fate of an animal cannot be tied to these “norms”. A concrete legal requirement for pet shops to strictly adhere to is necessary in order to ensure the animal’s continued welfare in its prospective owner’s care.
108. At the point of sale, prior to the completion of the transaction, the pet shop remains responsible for the welfare of the animal. It should be made the pet shop’s responsibility at this juncture to reasonably ensure the continued welfare of the animal in its prospective purchaser’s care. While individual screening of purchasers is far from practicable, a blanket ban on sale of animals to under-aged persons is a convenient solution that places the responsibility of the animal’s welfare on the pet shop and this will address welfare problems to a considerable measure.

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109. The importance ascribed to animal welfare and responsible pet ownership will be underpinned by the two-pronged effect of the prohibition. The pet shops are encouraged to take an active interest in the future welfare of the animals they sell and the purchaser is impelled to consider the consequences and implications of pet ownership. The welfare of animals being sold is reasonably protected and such efforts will go far in dispelling notions of animals being mere commodities involved in a financial transaction.

c. The Prohibition will bolster current efforts aimed at countering pet abandonment, neglect and abuse.

110. The AVA launched the Responsible Pet Ownership Public Education Programme in 2004 to create awareness and knowledge on the requirements of care and responsibility associated with pet ownership. Various events and initiatives have been organised to this end. In particular, since 2001, AVA has incorporated students into its educational efforts through talks in schools to inculcate a sense of responsible pet ownership.<sup>36</sup>

111. Education and awareness on responsible pet ownership is a long-term solution and should continue to be the primary locomotive of efforts to curb pet abandonment. However, the fruits of such education by way of campaigns, etc. are not immediately palpable.

112. The current efforts adopted in curbing abandonment are inadequate. We cannot wait years to see the effect of public education.

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<sup>36</sup> AVA, Responsible Pet Ownership Introduction, online:  
<<http://www.ava.gov.sg/AnimalsPetSector/ResponsiblePetOwnership/AboutRPOProgramme/Introduction/index.htm>>

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113. Despite the official launch of educational efforts in 2004, in 2010, the number of animals taken in by the SPCA alone touched 7,597 with up to 50 per cent of them being unwanted and abandoned pets.<sup>37</sup> Although this is a stark reduction of the 10,342 animals received by the SPCA in 2005, it is still a substantial number.
114. The progress is evidently slow. It is particularly noteworthy that the number of domestic small animals received by the SPCA did not decrease significantly at all. Between 2005 and 2009, there has only been a decrease of 255 animals being received, which connotes merely a decrease of four small animals received on average per month by the SPCA. It is by no means a coincidence that the general trend is for young persons to purchase domestic small animals rather than animals such as dogs or cats due to the comparative ease of caring for the former type of pets and the lower financial resources required for the purchase and upkeep of small animals. A prohibition on sale of animals to persons under 16 will address this problem directly.
115. The statistics suggest that a faster pace of progress is possible and point to the pressing need for a substantial, real, active effort to be made to tackle the pressing animal welfare/abuse problems. The primary strategy of education has to be flanked by various positive measures in order to attain optimal effectiveness and success. A prohibition of sale of animals to under-aged persons is an advantageous starting point.

### *iii. Conclusion*

116. There are chances that any measure may be unsuccessful. However, it is imperative that an active stance is adopted. The regulations governing sale of animals in Singapore should be updated in line with international legislations. The prohibition is by no means the only or even the crucial measure that will address abandonment and

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<sup>37</sup>SPCA, Help Us Save Lives! online:< <http://www.spca.org.sg/dump.html>>. While the total number of animals taken in reflects the number of strays taken in as well, pedigree dogs and domestic small animals are more likely (than not) to have been abandoned.



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- abuse. It should be viewed as a part (but an indispensable part nevertheless) of a series of multi-prong measures that should function as pillars to the primary, underlying strategy of education.
117. A prohibition of sale to under-aged persons would be the first line of defence and would buttress the importance of responsible pet ownership. Under-aged persons will be forced to reflect on why they have been prevented such purchases, especially impulsive purchases of lives. The value of animal lives will be reiterated and the status of animals as sentient beings, rather than economic commodities, will be reinforced.
118. This is an active form of education that will augment the education propelled by campaigns. Even if young persons persuade their parents to purchase animals on their behalf, at the very least, we have adult purchasers who should have directed their minds to the implications of pet ownership. It is here that the strength and impact of the prohibition lies.

## V. Recommendations relating to Court Orders

### 1. A Prohibition Order depriving those convicted for offences from keeping, owning or otherwise dealing with animals should be included as a possible order under Section 44(1) of the *Singapore Act*.

#### *i. Introduction*

119. Section 44(3) of the *Singapore Act* stipulates that “where the owner of any animal is convicted of an offence under Section 42, the court may, upon convicting him, if it thinks fit, in addition to any other punishment, deprive him of the ownership of the animal and make such order as to the disposal of the animal as the court thinks fit”. Section 62 allows the Director-General to suspend or revoke a license or permit of an animal owner under certain conditions.
120. However, these clauses are limited in scope and application. Section 44(3) only applies in respect of the animal(s) already owned by the offender and does not cover animals that may come into the offender’s possession in the future. Section 62 only applies in respect of animals that are already licensed and does not cover unlicensed animals. This points to the loopholes that remain unaddressed by the law as it currently stands.
121. There is clearly a need to introduce a wider clause under Section 44 prohibiting persons convicted of offences under Section 42 of the *Singapore Act* from keeping or owning specified types of animals (or any animal) for a specified or indefinite period,

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- depending on the seriousness of the offences and the offender's likelihood to be a recalcitrant offender.
122. Such a clause would function as a preventive measure that would ensure that offenders, who are likely to abuse animals despite a conviction, would be deterred.
- ii. Justifications for including the Prohibition Order*
- a. The Prohibition will bring the Singapore Act in line with international legislative prohibitions.
123. Various international jurisdictions, most notably, the United Kingdom, Australia and New Zealand have included clauses prohibiting ownership of animals to persons who have committed serious offences and/or who are likely to offend again.
124. Section 34(1) of the *United Kingdom Animal Welfare Act 2006* (the “*UK Act*”) specifies that “[i]f a person is convicted of an offence to which this section applies, the court ... may, instead of or in addition to dealing with him in any other way, make an order disqualifying him” from owning, keeping or participating in the keeping of animals. In addition, the *UK Act* allows the court to disqualify the offender from being a party to an arrangement under which he is entitled to control or influence the way in which animals are kept. All Australian states include similar prohibitions in their respective animal welfare legislations.
125. The focus of the courts appears to be on whether the person in question is likely to commit a further offence in respect of the animal already abused or any other animal and on the seriousness of the offence. For instance, Section 34(10) of the *UK Act* enumerates the offences for which such a preventive prohibition may be evoked. Section 169(1) of the *New Zealand Animal Welfare Act 1999* similarly allows the

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- preventive prohibition to be evoked only in cases of offences stated therein.
126. In Australia, the *Tasmania Animal Welfare Act 1993* (the “*Tasmanian Act*”) requires the person against whom the prohibition order is granted to have committed an offence under the *Tasmanian Act* and the court must consider this offence to be of a sufficiently serious nature to warrant a prohibition order. (Sections 43(1)(a) and 43(1)(b)). Section 12 of the *Victoria Prevention of Cruelty to Animals Act 1986* adopts a similar approach. Legislations in Australian Capital Territory, the Northern Territory and New South Wales require the court to be satisfied that, unless an appropriate order under this section is made, the person would be likely to commit a further offence in relation to the animal, or any other animal.
127. Section 185 of the *Queensland Animal Care and Protection Act 2001* stipulates that a prohibition order should only be granted if on the balance of probabilities, it is just to make the order in the circumstances (Section 185(1)). It also stipulates matters to which the court must have consideration in granting the prohibition order. These matters include the nature of the offence (Section 185(2)(a)) and the likelihood of the offender to commit another offence against animals (Section 185(2)(d)).
128. In line with the approaches adopted by the UK, Australia and New Zealand, it is prudent for Singapore to include a prohibition order to the existing penalties for offences under the *Singapore Act*. Prohibition orders should be granted where the court is satisfied that the offence(s) committed are serious enough to warrant the prohibition order and that the offender is likely to commit another offence against animals again.
129. In view of ensuring fairness to the offender, the above-mentioned legislations allow for a review of prohibition orders granted for a substantial time period, if the offender chooses to apply for review after the lapse of a specified time period. The possibility of review negates any unfairness involved in issuing a prohibition order and will



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balance the welfare interests of animals that may potentially be harmed and the interests of the offender in owning animals.

b. The Prohibition will aid in controlling recidivism rates.

130. The impact of a prohibition order would be far reaching. A cautious approach that prevents cruelty to animals and any suffering that they might experience is meritorious and yields real benefits to the welfare of animals than merely sentencing an offender who has already caused suffering and pain.

131. In *PP v. Hooi Yin Wang David* [2006] SGDC 204, the offender was deemed to be very likely to commit further offences against cats despite being sentenced for two similar animal abuse offences. The court was restricted by the procedural requirements to evoke preventive detention<sup>38</sup>, which was a significant setback in controlling the offender's future activities relating to animals. In this situation, a prohibition order would have been extremely useful since preventive detention was not possible. Although the offender in this particular case would possibly not have been deterred by a prohibition order, it would have ensured a harsher punishment for his next offence.

132. The prohibition order will at least be effective in ensuring the perpetrator faces a harsher sentence for future convictions. At its best, the prohibition will control the animal abuser's activities relating to animals and will contribute to preventing the offender from committing further crimes.

c. The Prohibition Order will reinforce the importance of animal welfare and the seriousness attributed to offences of cruelty against animals.

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<sup>38</sup> *PP v. Hooi Yin Wang David* [2006] SGDC 204 at [20].



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133. In light of the various cases of cruelty to animals that have come to the fore in the media, introducing the prospect of a prohibition order for serious offenders at this juncture will be timely and will reinforce the importance of animal welfare and the seriousness accorded to it by the government authorities. A prohibition order is a necessary weapon to save animal lives that may possibly be jeopardized.

### *iii. Conclusion*

134. It is strongly recommended that Singapore should include prohibition orders as possible penalties, in addition to a prison term or a fine in cases where the court is satisfied that the offender is likely to commit acts of cruelty to animals again and in cases where the severity of the abuse justifies the imposition of such a prohibition. The duration of the prohibition order may vary in accordance with the circumstances of each case with the possibility of review of the prohibition order after a specified time period (e.g. one year) has lapsed. It may assist the courts to a greater extent if the legislation states some factors to which the court should have consideration in granting a prohibition order.

## **2. Mental Health (Psychiatric or Psychological) Evaluation and Treatment should be included as a possible order under Section 44(1).**

### *i. Introduction*



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135. Mental health (psychological or psychiatric) evaluation and treatment should be included as a possible order by the magistrate under Section 44(1) in addition to the possible penalties of a fine or imprisonment.
136. Mental health evaluation and treatment should be made mandatory, in addition to possible penalties of a fine or imprisonment, in cases of offences involving violence or intended cruelty against animals.
137. Mental health evaluation and treatment, especially in cases of offences involving violence, may be most helpful and appropriate in preventing recidivism. Mental health evaluation is also important in identifying mild to serious mental health issues that may also be exhibited through violence against human victims.

*ii. Justifications to require mental health evaluation and treatment*

- a. The inclusion will be in line with the international recognition of the importance of mental health evaluation and treatment.

138. International jurisdictions are increasingly recognising the importance of mental health evaluation and treatment of offenders (particularly offenders who have committed an act of violence against animal(s)).
139. A number of states in the United States of America including California<sup>39</sup>, Illinois<sup>40</sup>, Oregon<sup>41</sup>, Maine<sup>42</sup> and Michigan<sup>43</sup> authorise courts to order mandatory psychological

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<sup>39</sup> California Penal Code, Title 14, Section 597(g) retrieved online from: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=594-625c>

<sup>40</sup> Illinois Humane Care For Animals Act (510 ILCS 70/1), Sections 3 – 3.03, retrieved online from: <http://statutes.laws.com/illinois/chapter510/1717>

<sup>41</sup> 2009 Oregon Revised Statutes, Title 16 Crimes and Punishment, Chapter 167 (Offenses against public health, decency and animals) § 167.334; § 167.350 (4) retrieved online at: <https://www.oregonlaws.org/ors/167.350>



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or psychiatric evaluation and counselling, usually at the offenders' own expense. Mandatory counselling is generally imposed as part of the sentence (alongside imprisonment or fine) for offences involving violence and intentional cruelty to animals.

140. The *Provincial Animal Welfare Act* (2009) of Ontario (which significantly updates *Ontario Society for the Prevention of Cruelty to Animals Act*), Canada was amended to authorise courts to require mental health counselling prior to sentencing as well as a possible order alongside other penalties, other Canadian states are being pushed to make similar moves.<sup>44</sup> Following these amendments, other Canadian provinces have been pushed by local animal welfare groups to recognise the importance of mental health counselling and to include such an option in their respective animal welfare legislations.
141. With respect to Australia, Section 104A of the Australian Capital Territory's *Animal Welfare Act 1992* allows for the court, prior to sentencing a person who is found guilty or convicted of an offence involving violence towards animals, to
- (a) make an order requiring the person to submit to psychological assessment; and
  - (b) consider the assessment and any recommendation for counselling or treatment arising from the assessment.

In addition to considering the assessment for purposes of sentencing, the court may, in addition to any other sentence it may impose, make an order requiring the person to undertake a program of counselling or treatment (S104A(3)). Examples of

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<sup>42</sup> 2010 Maine Revised Statutes, Title 17 (Crimes), Chapter 42: Animal Welfare; Subchapter 3: Cruelty to Animals; s. 1031(3-B) retrieved online: < <http://www.mainelegislature.org/legis/statutes/17/title17sec1031.html> >

<sup>43</sup> The Michigan Penal Code Act 328 of 1931 Section 750.50(5). Retrieved online: [http://www.legislature.mi.gov/\(S\(3ugllk55jqua445dkksty55\)\)/mileg.aspx?page=getObject&objectName=mcl-750-50](http://www.legislature.mi.gov/(S(3ugllk55jqua445dkksty55))/mileg.aspx?page=getObject&objectName=mcl-750-50)

<sup>44</sup> <http://www.aldf.org/article.php?id=1713> 2011 Canadian Animal Protection Laws Ranking, Animal Legal Defense Fund

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programmes include anger management treatment program.

142. A similar approach could be adopted in Singapore by allowing the court discretion to make an order for psychological and/or psychiatric evaluation for purposes of sentencing and to further make an order for the offender to mandatorily undergo relevant treatment in cases where evaluation recommends it and in cases involving violence and/or intended cruelty against animals.

b. Mental health evaluation and treatment could potentially identify more serious, underlying problems.

143. There are strong reasons to include mental health evaluation and treatment as possible court orders. Recent academic studies have shown that violence towards animals is often a manifestation of underlying psychiatric problems that have yet to be identified and treated. Studies have also shown that perpetrators of violence against animals have a higher propensity to continue being a threat to animals and have a propensity to be a threat towards humans as well.<sup>45</sup>

144. Violent behaviour towards animals could be a “red flag” indicating severe problems such as child abuse and domestic violence.<sup>46</sup> Cruelty to animals can be a “viable indicator not only of individuals at risk of committing violence but also of individuals at risk of having violence committed against them.”<sup>47</sup> In this context, mental health evaluation and treatment may prove to be extremely beneficial and significant, not only to animal welfare, but also to society at large and to individuals and families that

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<sup>45</sup> Cruelty to animals & interpersonal violence: readings in research and application Edited by Randall Lockwood, Frank R Ascione Purdue University press 1998 USA; Child Abuse, Domestic Violence and Animal Abuse: linking the circles of compassion for prevention and intervention Edited by Frank R Ascione and Phil Arkow 1999 Purdue University Press USA; The Link Between Animal Cruelty and Violence towards People Cynthia Hodges [http://www.actasia.org/index/uploads/file/animal\\_human\\_violence.pdf](http://www.actasia.org/index/uploads/file/animal_human_violence.pdf)

<sup>46</sup> Linda Merz-Perez, Kathleen M. Heide, Animal cruelty: pathway to violence against people [2004] Altamira Press, New York, USA

<sup>47</sup> Ibid. pg 158

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are affected.

### *iii. Conclusion*

145. A cooperative approach must be taken by the judicial system, the animal welfare authorities (AVA in this case), court-appointed psychiatrists or trained counsellors as well as the registered animal welfare groups to ensure that offenders are provided with counselling and where necessary, the relevant psychological/psychiatric treatment should be provided and follow-up checks should be done. Mental health evaluation and treatment (as opposed to imposing a jail term or a fine alone) is a very significant and necessary intervention strategy that would yield real results and would be more effective in preventing recidivism, especially with respect to offenders suffering from a mental condition who may not respond positively to imprisonment or a fine.

## VI. General Recommendations

### 1. A New Animal Welfare Act

#### *i. Introduction*

146. Part IV of the Animals and Birds Act (Cap 7) that deals with prevention of cruelty against animals as well as animal welfare matters (as well as all the related provisions from other parts of the *Singapore Act*, and the relevant subsidiary rules and regulations), should be extrapolated to form a separate, stand-alone act, to be entitled the “**Animal Welfare Act**”.

#### *ii. Justifications for a new Animal Welfare Act*

147. Currently, Part IV (Prevention of Cruelty to Animals) is situated alongside a number of other parts, relating to matters such as importation, transshipment or exportation of animals, prevention of spread of disease, licensing of veterinary centres and quarantine, among others.
148. Given the breadth of the *Singapore Act*, the importance or significance of Part IV is not adequately demonstrated. The welfare of animals and prevention of cruelty are matters that are separate from matters relating to the control or administration of animals. Categorising animal welfare issues under a generic “Animals & Birds Act” (that also includes a number of other equally important categories) symbolically dilutes the importance attributed to animal welfare and prevention of cruelty issues.

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149. With greater awareness by the public and the influx of new information relating to animal welfare from the scientific and academic community, Part IV as it currently stands, is poised for major changes (both in substance and in structure) in order to keep up with these developments. Animal welfare is a large, burgeoning field in itself. It would not be possible to condense new legislative developments into Part IV as this may not adequately capture the intended spirit of amendments or legislative inclusions. In any event, the importance of these amendments would further be diluted by virtue of their placement alongside a number of other important animal-related issues.
150. With the myriad of animal welfare issues to be dealt with and considered, especially in the future, attempting to fit everything into the limited Part IV would only give rise to complications. The most prudent solution is to remove Part IV from the Singapore Act and extrapolate it into a new Animal Welfare Act. This would provide greater flexibility to accommodate the suggested amendments and the substance and structure of the existing provisions can be amended without resulting in complications.
151. Finally, the title “Animal Welfare Act” (as opposed to a “Prevention of Cruelty to Animals Act”) indicates the progressive attitude towards animal welfare issues that is ideally to be adopted by Singapore. It explicitly recognises that animal welfare is a value to be protected and promoted, in addition to ensuring that cruelty to animals is prevented.

### *iii. Conclusion*

152. Animal welfare issues should be recognised as being unique and separate from the general objectives of the other categories in the *Singapore Act*. While the other categories or Parts deal with the control or administration of animals, with the primary objective of regulating all activities related to animals, Part IV goes to the heart of



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animal welfare.

153. The current Part IV has immense potential for improvement and strengthening but this cannot be done comfortably within the existing framework. Extrapolating Part IV (and also replicating the relevant sections from other parts of the *Singapore Act*) and incorporating new provisions into a new act would represent the significance of animal welfare issues and would allow for greater flexibility in amending and strengthening the current legislative framework in Singapore.

## 2. The List of Prohibited Acts

### *i. Introduction*

154. A list of **prohibited acts** should be formulated to identify specific acts that endanger animal welfare or are known to cause suffering amounting to cruelty to animals. Commission of any of the acts in the prohibited list should attract a substantially deterrent penalty. This prohibited list should be included in a section under Part IV of the *Singapore Act*.
155. The suggested list of prohibited acts could contain the following:-
1. Use of electric training collars or any other painful stimulus in the training of dogs or other animals;
  2. Sale or setting of glue boards traps, including using them for the purposes of

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trapping any animal;

3. Placing together animals known to fight each other (e.g. the Siamese fighting fish *Betta splendens*);
4. Confining and/or tethering dogs for prolonged periods (for more than 12 hours a day);
5. Tail docking, debarking, declawing and any other mutilation of animals for cosmetic reasons.

*ii. Justifications to include a list of prohibited acts into Part IV of the Singapore Act*

156. While Section 42 of the *Singapore Act* serves as an umbrella provision that catches most acts of cruelty, it is arguable that certain acts either may not squarely fall within the existing sub-sections or may not be recognized as being serious enough unless they are singled out and declared as being prohibited.
157. It is notable that a very specific provision relating to the fighting and baiting of animals is included in the *Singapore Act* (Section 42(1)(h)). This is commendable as the act of causing animals to fight or baiting animals is a grave act and the seriousness of this act could not sufficiently be captured under the other more general sub-sections. The recommendation to prohibit placing together animals that are known to fight would be useful. It ensures that animals prone to fighting are kept separate.
158. That the fighting and baiting of animals has been singled out for its gravity is a strong reason to specify other acts that are equally, if not more, grave. However, it is not possible to enumerate these acts within Section 42(1) and adopting the “list” to form a new section or a new sub-section of Section 42 would be more convenient.



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159. A number of other jurisdictions, including Australia, the USA and the UK (although the UK adopts a very detailed approach to enumerating the offences in its legislation), have opted to specify the more serious (and often prevalent) acts that significantly injure animals or cause them to suffer. In the relevant legislations, the specific acts that are prohibited are noted in the form of a list alongside general prohibitions or general clauses protecting animal welfare or preventing cruelty to animals. Given that this approach has worked for these jurisdictions, it would greatly strengthen Singapore's framework to formulate a list of prohibited acts to nail the serious issues and uproot them.

### *iii. Conclusion*

160. It must be declared that certain identified acts (that cause unnecessary pain and suffering to the animal involved and that are common practice) are prohibited as these acts are an affront to animal welfare and are considered serious enough to be singled out. Without being singled out, these acts would not fall squarely within the other subsections and the gravity of these acts would be ignored.
161. In addition, the penalty imposed for committing prohibiting acts must be substantial enough to have a deterrent effect and for the list of prohibited acts to be taken seriously.

## **3. Animal Welfare Advisory Committee**

*i. Introduction*

162. An Animal Welfare Advisory Committee should be established under the *Singapore Act* for the purpose of advising the Minister on animal welfare matters, including the development of subsidiary legislation, rules and regulations. The constitution of the Advisory Committee should be established by the *Singapore Act*, with equal representation from the veterinary profession, experts in animal science and animal behaviour, animal industry (including commercial breeders) and animal welfare advocacy organisations.
163. This is similar to the National Advisory Committee for Laboratory Animal Research (NACLAR) that was established in Singapore. In 2004, NACLAR issued the “Guidelines for the Care and Use of Animals for Scientific Purposes”. In a similar vein, the Animal Welfare Advisory Committee will play a key role in shaping animal welfare policies across the board. This would include updating the Rules and Regulations that supplement the *Singapore Act* and to issue relevant guidelines on distinct animal welfare matters.

*ii. Justifications to establish an Animal Welfare Advisory Committee in Singapore*

164. An independent Committee that advises the Minister will be beneficial as it ensures that all perspectives have been weighed in and considered before the relevant advice is put forth. This would mean that the policies and changes in the law that are implemented will strike the appropriate and best possible balance between ensuring animal welfare and other interests in question (such as commercial interests or interests of public health, etc.).

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165. Various jurisdictions have appointed advisory committees that provide independent advice to the relevant Ministers on animal welfare issues. The functions of these committees ensure that while commercial interests and other important factors are recognised, animal welfare is protected as best as possible.
166. In New Zealand, the National Animal Welfare Advisory Committee (NAWAC) has been established under the *Animal Welfare Act 1999* (Section 186) to provide independent advice to the Minister of Agriculture on matters such as the codes of welfare and legislative proposals relating to animals. NAWAC's functions are provided for under Section 57 of the *New Zealand Animal Welfare Act 1999*. The constitution of NAWAC is holistic and has equal representation from the various stakeholders and key players, such as commercial breeders as well as animal welfare advocacy groups.<sup>48</sup>
167. The various states of Australia also provide for the establishment of Animal Welfare Advisory Committees in their respective animal welfare legislations, under the Australian Animal Welfare Strategy that provides for a nationally consistent legislative system governing animal welfare. For example, the *Queensland Animal Care and Protection Act 2001* (Section 211) allows for the Minister for Agriculture, Food and Regional Economies to establish an Animal Welfare Advisory Committee to advise him on animal welfare issues. Similarly, the *Australian Capital Territory Animal Welfare Act 1992* (Part 9) allows for the establishment of an Animal Welfare Committee as well. The functions of the Committee in the various states are similar – the Committee advises Minister about animal welfare legislations and proposed amendments and participates in the development of codes of practices that supplement the main animal welfare legislation. In addition, the Committee advises the Minister on any animal welfare-related matter.

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<sup>48</sup> Information retrieved from: <http://www.biosecurity.govt.nz/regs/animal-welfare/nz/nawac>

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168. In Hong Kong, the Animal Welfare Advisory Group was appointed on 25 April 1997. The Group advises the Director of Agriculture on animal welfare issues, including matters relating to the promotion of community awareness of animal welfare. The Group also regularly recommends updates on relevant animal laws. The Group consists of members who represent animal welfare organisations, animal related businesses as well as individuals with a strong passion for animal welfare issues. The Hong Kong Agriculture, Fisheries and Conservation Department provides secretarial and administrative support to the Group.<sup>49</sup>
169. Animal welfare advisory committees in other jurisdictions have proven to be crucial for the development of animal welfare legislations and for the protection of animal welfare matters (while having due consideration to and balancing legitimate competing interests). It is hoped that establishing a similar committee in Singapore will be beneficial in ensuring that animal welfare is best protected.

### *iii. Conclusion*

170. In line with international practice, an Animal Welfare Advisory Committee should be created with the aim of promoting animal welfare and to ensure that Singapore's animal welfare legislations are kept up to date and in line with international legal and scientific developments in the area of animal welfare.
171. It is also recommended that the Animal Welfare Advisory Committee organise public forums annually or bi-annually, in order to gather public feedback, opinions and suggestions and to identify specific areas for amendments, improvements or development. These forums may aid the Animal Welfare Advisory Committee,

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<sup>49</sup> Information retrieved from:

[http://www.afcd.gov.hk/english/quarantine/qua\\_awc/qua\\_awc\\_aw/qua\\_am\\_aw\\_awag/qua\\_am\\_aw\\_awag.html](http://www.afcd.gov.hk/english/quarantine/qua_awc/qua_awc_aw/qua_am_aw_awag/qua_am_aw_awag.html)



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specifically in terms of formulating proposals and recommendations, and broadly in terms of fulfilling its role and objectives to promote animal welfare in Singapore.

### 4. Animal Welfare Trust Fund

172. A substantial number of offences against the *Singapore Act* are dealt with by way of compound fines issued by the AVA. Given the potentially large amount of money generated from the compound fines and fines imposed by courts upon conviction of offenders, it is suggested that an Animal Welfare Trust Fund be established from the amount realised by way of fines levied against those who commit offences under the *Singapore Act*.
173. The Animal Welfare Trust Fund, which could be administered and managed by AVA, should be utilised to fund animal welfare initiatives and programmes.
174. It is further suggested that upon the inception of the proposed Animal Welfare Advisory Committee, AVA could consult the Committee for instructions as to the disbursement of trust funds.

## **VII. Conclusion**

175. There is a pressing need to ensure adequate protection of animal welfare in Singapore, especially in the wake of the recent spate of cases of cruelty to animals highlighted by the media and the increased number of cruelty cases reported to the SPCA. Public sentiment regarding animal welfare issues is at an all-time high and the time is ripe for reforms.
176. With Singapore being recognised internationally as a front-runner and trailblazer in a number of fields, there is a strong impetus to reform and strengthen the legislative framework governing animal welfare in Singapore. This move will position Singapore as a country whose animal welfare laws are lauded by international animal welfare groups and emulated by the developing countries of the Southeast Asian region.
177. As Singapore progresses economically, the underprivileged and the needy of our society, including animals, should not be forgotten. As a developed country that desires and promotes peace and harmony among its diverse melting pot demographic, it must be remembered that no society can truly claim to be civilised and non-violent, if it does not take progressive steps to prevent violence against animals and to protect animals from cruelty, in all its forms.
178. It must be noted, however, that any amendment to the legislative framework governing animal welfare will only succeed in achieving its intended goals if there is meticulous enforcement of the laws at every stage.
179. The AVA investigation team should adopt a more rigorous investigative procedure with respect to cases of cruelty to animals, in view of upholding the relevant legislation. The AVA prosecution team could make the most out of the proposed legislative framework and press for harsher penalties, especially in cases of serious



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cruelty. This is necessary to reinforce the importance of animal welfare and to highlight to the public (and to offenders), the seriousness with which the authorities view cases of cruelty to animals. Without rigorous enforcement, the entire legislative framework, no matter how impeccable, would be severely undermined.

180. We hope that the Ministry of Law, the Ministry of National Development and the AVA would seriously consider the recommendations and suggestions put forth in this proposal.