



ANALYSIS

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1960, No. 30

An Act to make provision for the protection of animals and the prevention of cruelty to animals [17 October 1960]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Animals Protection Act 1960.

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

“Aggravated cruelty”, in relation to any animal, means cruelty which results in the death of the animal or which causes it to be so maimed or disabled or injured that it becomes necessary to destroy the animal in order to terminate its suffering:

“Animal” means—

(a) Any horse, cattle, sheep, pig, goat, dog, cat, mule, or ass, of whatever age or sex and whether in a domestic or wild state:

(b) Any bird, whether in a domestic or wild state:

(c) Any marine mammal found on, or in the vicinity of, the seashore:

(d) Any other species of animal which is dependent upon man for its care and sustenance, or which is kept by man in a state of captivity, or which is declared by the Minister, by notice in the *Gazette*, to be an animal for the purposes of this Act:

“Cruelty”, in relation to any animal, means the wilful infliction upon the animal of pain or suffering that in its kind or degree, or in its object, or in the circumstances in which it is inflicted, is unreasonable or unnecessary; and “cruel” and “cruelly” have meanings corresponding to the meaning of the term “cruelty”:

“Ill-treat” means beat, whip, kick, wound, maim, abuse, worry, torment, torture, terrify, infuriate, override, overdrive, overload, drive when overloaded, or by any act or omission whatsoever cause pain, suffering, or distress; and “ill-treatment” has a corresponding meaning:

“Inspector” means an Inspector under this Act:

“Minister” means the Minister of Agriculture:

“Veterinary practitioner” means any person who, pursuant to subsection (2) of section 33 of the Veterinary Surgeons Act 1956, is entitled to use the title or description of veterinary practitioner:

“Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act 1956.

Cf. 1927, No. 35, s. 7 (2)

3. Offences of cruelty—Every person commits an offence, and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both, who—

- (a) Cruelly ill-treats any animal; or
- (b) Being the owner or person in charge of any animal, omits to supply the animal with proper and sufficient food, water, or shelter; or

- (c) Keeps or uses any place for the purpose of causing any animal to fight, or for the purpose of baiting or otherwise ill-treating any animal, or manages, or assists in the management of, any such place; or
- (d) Is present for the purpose of witnessing the fighting or baiting of any animal, at any place used or kept for that purpose; or
- (e) In any manner encourages, aids, or assists in the fighting or baiting of any animal; or
- (f) Slaughters, brands, mutilates, confines, conveys, or carries any animal in such a manner or position as to cause the animal unnecessary pain or suffering; or
- (g) Spays, or causes or procures to be spayed, any cat or dog, unless the spaying is performed by a veterinary surgeon or veterinary practitioner; or
- (h) Being a veterinary surgeon or veterinary practitioner, spays any cat or dog, unless during the whole course of the operation the cat or dog is under the influence of a general or local anaesthetic of sufficient power to prevent its feeling pain; or
- (i) Promotes, arranges, conducts, assists in, is financially interested in, or takes part in, any meeting, competition, exhibition, pastime, practice, display, or any event whatsoever, at or in the course of which—
- (i) Live hares are coursed, pursued, or killed in any confined space or enclosure; or
- (ii) Animals are released from captivity for the purpose of being shot at at the time of their release; or
- (j) Sells, attempts to sell, or offers or exposes for sale, otherwise than for the express purpose of being slaughtered, any animal which is in such a condition that it is cruel to keep it alive; or
- (k) Keeps alive any animal which is in such a condition that it is cruel to keep it alive; or
- (l) Being the owner or person in charge of any dog which is normally tied up or kept in close confinement, omits without reasonable cause or excuse to exercise the dog daily and reasonably or to release it daily for reasonable exercise; or
- (m) Docks, or causes or procures to be docked, the tail of any horse over the age of twelve months, unless the docking is performed by a veterinary surgeon or veterinary practitioner; or

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- (n) Being a veterinary surgeon or veterinary practitioner, docks the tail of any horse, unless during the whole course of the operation the horse is under the influence of a general or local anaesthetic of sufficient power to prevent its feeling pain; or
- (o) Being the owner or person in charge of any animal,—
(i) Permits it to be driven or led or ridden on any highway; or
(ii) Permits it to be conveyed on any highway or railway, or conveyed in the air, or on any river, lake, harbour, or other waters within New Zealand or its territorial waters,—
while the condition or health of the animal is such as to render it unfit to be so driven, led, ridden, or conveyed, unless the animal is being driven, led, ridden, or conveyed for the purpose of being impounded under the Impounding Act 1955 or becomes unfit to be driven, led, ridden, or conveyed because of a deterioration in the condition or health of the animal arising from any cause whatsoever while the animal is en route to a slaughterhouse; or
- (p) Being the owner or person in charge of any animal, not being a bird, wilfully abandons it; or
- (q) Wilfully and without reasonable cause or excuse, administers to any animal any poisonous or injurious drug or substance, or throws over, or in any other way applies to any part of, any animal any acid or other corrosive substance; or
- (r) Throws, casts, drops, or lays any poison—
(i) On or in any public place, or any place adjacent thereto, in any borough or town district or county town, or on or within three chains of any highway outside of any borough or town district or county town; or
(ii) On any land or premises anywhere not in his own actual occupation; or
- (s) Buries any poison in any land at less than two feet from the surface thereof; or
- (t) With the intention of destroying any dog under the powers conferred by the Dogs Registration Act 1955, wounds or maims the dog and thereafter fails to take all reasonable steps to terminate its suffering; or

- (u) Pierces the tongue or tongue phrenum of any animal with any pig ring or like contrivance or with any wire; or
- (v) Being the owner or person in charge of any cow which is in milk and which is offered for sale, fails to milk out the cow within the period of eighteen hours before it is so offered for sale; or
- (w) Counsels, procures, aids, or abets any other person to do any act or refrain from doing any act as a result of which unnecessary suffering is caused to any animal.

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Cf. 1924, No. 37, s. 6; 1927, No. 35, ss. 7 (1), 16; 1938, No. 15, s. 3; 1953, No. 31, s. 72 (m), (n); 1953, No. 41, s. 13 (2) (c); 1953, No. 59, s. 2; 1955, No. 42, s. 31; 1955, No. 108, s. 4 (1)-(3); S.R. 1954/152

4. Aggravated cruelty—Every person who wilfully commits an act of aggravated cruelty in respect of any animal commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both.

5. Parties to offences—Without limiting the provisions of section 90 of the Crimes Act 1908 (which relates to persons aiding or abetting the actual offender or counselling or procuring the commission of an offence), every person is guilty of an offence against section 3 or section 4 of this Act, as the case may be, who—

- (a) Being the parent or a person in charge of any child under the age of sixteen years, knowingly permits the child to commit an offence against either of those sections, or fails without reasonable cause or excuse to prevent the child from committing or continuing such an offence; or
- (b) Being the owner or a person in charge of any animal, knowingly permits such an offence to be committed in respect of that animal, or fails without reasonable cause or excuse to prevent the commission or continuation of such an offence; or
- (c) Being the owner or occupier of any land, knowingly permits such an offence to be committed on that land, or fails without reasonable cause or excuse to prevent the commission or continuation of such an offence thereon.

6. Offences relating to the use of traps, nooses, and similar contrivances—(1) Any person who, for the purpose of catching any rabbit, hare, opossum, wallaby, or other animal (whether or not it is an animal within the meaning of this Act), sets or causes to be set any trap, noose, or similar contrivance shall, at least once in every twenty-four hours, inspect, or cause to be inspected by some competent person, the trap, noose, or contrivance, and shall remove, or cause to be removed, from the trap, noose, or contrivance, at the time of the inspection, any living creature found trapped therein.

(2) Every person who fails to comply with any provision of subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds.

7. Transport of animals—(1) Every person in charge of any vehicle or aircraft, and the master, or where there is no master the person in charge, of every vessel, shall ensure that any animal conveyed therein is provided with reasonably comfortable and secure accommodation.

(2) The consignor of every animal confined in a vehicle, aircraft, or vessel shall arrange for the supply to the animal of proper and sufficient food and water, and, except when the animal is conveyed in an aircraft or vessel, shall arrange that, where necessary and practicable, the animal is off-loaded to enable such a supply to be made.

(3) Every person who fails to comply with any provision of this section commits an offence, and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

8. Injury to animal by vehicle on street or highway—(1) Where any animal, not being a bird, is struck by any vehicle on any street or highway and is so injured as to be disabled, the driver or rider of the vehicle shall forthwith report the accident to the owner or person in charge of the animal or to an Inspector or to a traffic officer under the Transport Act 1949, unless the driver or rider is incapable of doing so by reason of injuries sustained by him in the accident.

(2) Where any such accident is reported to a traffic officer, he shall take such steps as he considers practicable in the circumstances to obtain assistance for the injured animal or,

as the case may require, to have it destroyed by an Inspector under the powers conferred by subsection (3) of section 12 of this Act.

(3) Every person who fails to comply with the provisions of subsection (1) of this section commits an offence, and shall be liable on summary conviction to a fine not exceeding ten pounds.

9. Appointment of Inspectors—(1) There may from time to time be appointed under the provisions of the Public Service Act 1912 suitable persons to be Inspectors for the purposes of this Act.

(2) The Minister may from time to time appoint—

(a) Any suitable person (not being an employee of the Public Service) to be an Inspector in a part-time capacity for the purposes of this Act:

(b) Any suitable person to be an Inspector in an honorary capacity for the purposes of this Act.

(3) Every constable shall by virtue of his office be deemed to be an Inspector.

(4) Every Inspector appointed under subsection (2) of this section—

(a) Shall be appointed for such term, not exceeding three years, as the Minister thinks fit, and may be reappointed:

(b) May at any time be removed from office by the Minister for incapacity, neglect of duty, or misconduct, or may at any time resign his office by notice in writing addressed to the Director-General of Agriculture:

(c) Shall on the expiration of the term of his appointment, or on the sooner expiry of his appointment by removal from office or resignation, surrender to the Director-General of Agriculture his warrant of appointment.

(5) No person appointed by the Minister under this section to be an Inspector shall by virtue of that appointment be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1912 or of the Superannuation Act 1956.

10. Powers of Inspectors—(1) Any Inspector shall have power to enter at any time, by force if necessary, into any vehicle, aircraft, or vessel, or on any land or premises, for the purpose of inspecting any animal, where he is satisfied on reasonable grounds that an offence against this Act is being, or has been, committed in respect of any animal:

Provided that no Inspector shall enter into or upon any dwellinghouse, unless he is authorised in that behalf by a Justice in accordance with the provisions of subsection (3) of this section.

(2) Every Inspector exercising the power of entry conferred by subsection (1) of this section shall, if so required,—

(a) In the case of an Inspector not being a constable, produce his warrant of appointment:

(b) In the case of a constable who is not in uniform, produce his badge or other evidence that he is a constable.

(3) Any Justice who is satisfied on oath that there is probable cause to suspect that an offence against this Act has been, or is being, committed in a dwellinghouse may in writing authorise an Inspector to enter any dwellinghouse, by force if necessary, at such time or times in the day or night as are specified in the warrant, for the purpose of inspecting any animal confined or kept therein.

(4) It shall be lawful for any Inspector to obtain and maintain possession, by force if necessary, of any animal in respect of which he has reasonable cause to believe that an offence against this Act is being, or has been, committed and to convey the animal to some place of safety, and there hold the animal until such time as a Magistrate orders that the animal be delivered to the owner thereof or to the person charged.

(5) Where any animal is tied up on any land or premises, or is confined in any shed or other building, or in any kennel, cage, pen, hut, or other like structure, or in any conveyance, and while so tied up or confined is without access to proper and sufficient food and water for more than twenty-four consecutive hours, it shall be lawful for any Inspector to enter at all reasonable times into or upon the land or premises where the animal is tied up or confined, or into the conveyance wherein the animal is confined, and supply the animal with proper and sufficient food and water for so long as it continues to be so tied up or confined:

Provided that an Inspector shall not enter into or upon any dwellinghouse for the purpose of exercising his powers under this subsection, unless he is authorised in writing by a Justice in that behalf.

(6) Where any Inspector is satisfied that undue suffering is being caused to any animal by reason of overcrowding, or insufficient water, food, or shelter, or insanitary conditions, or otherwise howsoever, there shall be taken by the Inspector or, if the Inspector so requires, by the owner or person in charge, or appearing to be in charge, of the animal, all such steps as the Inspector considers are necessary or desirable to prevent or mitigate the suffering of the animal:

Provided that, except with the consent of the Minister, no Inspector shall, for the purpose of providing any accommodation for any animal, or of making any alterations or modifications to any accommodation already provided for and used by any animal, incur any expenditure in excess of ten pounds or require any other person to incur any expenditure in excess of ten pounds.

(7) If any person refuses or wilfully fails to comply with any requirement of an Inspector under subsection (6) of this section, he commits an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds.

Cf. 1927, No. 35, ss. 7 (4), 11; 1939, No. 19, s. 60 (1),
(3)

11. Constable may detain vehicles, etc.—Where a constable arrests any person on a charge of an offence under this Act committed by that person in respect of any animal drawing or being conveyed in any vehicle of which he is for the time being in charge, the constable may take possession of the vehicle or animal or both, and may lodge the same in some place of safe custody until the information in respect of the offence has been heard and determined, or until such time as a Magistrate orders that the vehicle or the animal or both be delivered to the owner thereof or to the person charged.

Cf. 1927, No. 35, s. 11; 1955, No. 85, s. 4 (5)

12. Destruction of injured or suffering animals—(1) Where the owner of any animal is convicted of an offence against this Act in respect of that animal, the Court may, if it is satisfied that it would be cruel to keep the animal alive, order that the animal be destroyed, and for that purpose may assign the animal to any suitable person, who shall, as soon as practicable, destroy the animal and dispose of the carcass as ordered by the Court.

(2) In any such case the Court may, in addition to any penalty imposed in respect of the offence, order the owner of the animal to pay all expenses reasonably incurred in destroying the animal and disposing of the carcass in accordance with the provisions of subsection (1) of this section. Those expenses shall be assessed by the Court, and shall be recoverable in the same manner as a fine.

(3) Where any Inspector finds any animal, not being a bird or marine mammal, severely injured or sick and, in his opinion, the animal would not respond to treatment and it would be cruel to keep the animal alive, he shall—

(a) If the owner of the animal is not known, or is absent, or cannot be found within a reasonable time, forthwith destroy the animal or cause it to be destroyed, and shall dispose of the carcass in any manner he thinks fit; or

(b) If the owner refuses to destroy the animal or to consent to the animal being destroyed, forthwith summon a veterinary surgeon or veterinary practitioner, and, if the veterinary surgeon or veterinary practitioner certifies in writing that it is not possible to cure or heal the animal so that it may live without suffering, the Inspector shall destroy the animal or cause it to be destroyed, and shall dispose of the carcass in any manner he thinks fit.

(4) Notwithstanding anything in the Wildlife Act 1953, where any Inspector finds any bird severely injured or sick and, in his opinion, it would not respond to treatment and it would be cruel to keep it alive, he shall forthwith destroy the bird or cause it to be destroyed, and shall dispose of the carcass in any manner he thinks fit.

(5) Subject in the case of a seal to the consent of the Secretary for Marine under section 45A of the Fisheries Act 1908, where any Inspector finds any marine mammal in such circumstances that, in the opinion of the Inspector, it would be cruel to keep it alive, he shall forthwith kill it or cause it to be killed, and shall forthwith report its death to the local authority or local authorities which in his opinion should be informed.

(6) Notwithstanding anything in this section, where any Justice, Inspector, veterinary surgeon, or veterinary practitioner certifies in writing that any animal impounded in any public pound under the provisions of the Impounding Act 1955 is so diseased, injured, or disabled that it is in a state of continual suffering, the local authority having jurisdiction

over the pound shall arrange for the animal to be destroyed, and for the carcass of the animal to be disposed of in accordance with the provisions of section 52 of that Act.

Cf. 1927, No. 35, s. 13

13. Expenses incurred by Inspectors and constables—

(1) All expenses reasonably incurred by any Inspector or constable in exercise of any of the powers conferred by subsections (4) to (6) of section 10 or by section 12 of this Act, or by any constable in exercise of the powers conferred by section 11 of this Act, including in each case the cost of any veterinary treatment reasonably required in respect of any animal, shall be recoverable from the owner or person in charge or appearing to be in charge of the animal.

(2) Those expenses shall be recoverable as a debt or, where the person from whom they are recoverable is convicted of an offence against this Act in respect of the animal, may be assessed by the Court and be recoverable from the defendant in the same manner as a fine.

Cf. 1927, No. 35, s. 7 (5); 1939, No. 19, s. 60 (2)

14. Protection of persons acting under authority of Act—

Any person who does any act in pursuance or intended pursuance of any of the provisions of this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted in bad faith or without reasonable care.

15. Liability for damage caused through cruelty—

(1) On the conviction of any person for any offence against this Act, the Court may order the offender to pay to any person such sum as it thinks fit by way of compensation for any loss of property suffered by that person through or by means of the offence.

(2) Any order for payment under this section may be enforced in the same manner as a fine.

(3) An order under this section shall not affect the right of any person to recover by civil proceedings any sum in excess of the amount paid pursuant to the order.

Cf. 1927, No. 35, s. 8; 1955, No. 108, s. 4 (4)

16. Power to disqualify persons convicted of cruelty to animals—(1) Where any person is convicted of an offence against section 3 or section 4 of this Act and has previously been convicted of any offence against either of those sections, or against the corresponding provisions of any enactment repealed by this Act, the Court may, if it thinks fit, in addition to or in substitution for any other penalty, order him to be disqualified, for such period as it thinks fit, from having custody of any animal or of any animal of a kind specified in the order.

(2) Any person who is disqualified by an order made under subsection (1) of this section may, at any time after the expiration of twelve months from the date of the order and from time to time, apply to the Court by which the order was made for removal of the disqualification, and at the hearing of the application the Court may, as it thinks fit, having regard to the character of the applicant, his conduct since the making of the order, the nature of the offence of which he was convicted, and any other circumstances of the case,—

(a) Order that, as from a date to be specified in the order, the disqualification be removed or the order of disqualification be so varied as to apply only to animals of a kind specified in the first-mentioned order; or

(b) Refuse the application:

Provided that where on any such application the Court orders the variation of the order of disqualification, or refuses the application, a further application under this subsection shall not be entertained if made within twelve months after the date of the order of variation or the refusal.

(3) Every person commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both, who has custody of any animal in contravention of an order made under subsection (1) of this section (including an order varied under subsection (2) of this section).

17. Offenders to give name and address—(1) Any Inspector may require any person to give his full name and place of abode if that person has been found offending against this Act or if the Inspector has reasonable grounds for believing that that person has committed an offence against this Act.

(2) If, after being so required, any person fails to give his full name or place of abode or gives a false name or place

of abode or gives such a description of his place of abode as is illusory for the purpose of discovery, he commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding twenty pounds.

18. Obstruction of Inspector—Every person commits an offence against this Act, and shall be liable on summary conviction to imprisonment for a term not exceeding three months, who obstructs or hinders an Inspector in the exercise of his powers or the performance of his duties under this Act, or who fails to obey any lawful direction of an Inspector.

Cf. 1927, No. 35, s. 12 (2)

19. Exemptions—(1) Nothing in this Act shall render unlawful—

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- (a) The dehorning of cattle or the castration, earmarking, or branding of any animal, or the tailing of any lamb or dog, where the operation is attended with as little suffering to the animal as is reasonable in the circumstances; or
 - (b) The killing of any animal, where the killing of the animal is carried out without the infliction of unnecessary suffering; or
 - (c) The hunting, snaring, trapping, shooting, or capturing of any animal in a wild state; or
 - (d) Any research or experimental work carried out on an animal by any bona fide research worker.

(2) Nothing in this Act, except section 6, shall apply to the extermination or destruction of any animal under the authority of the Rabbits Act 1955, the Noxious Animals Act 1956, Part IV of the Wildlife Act 1953, or any other Act, or any regulations made under any such Act.

Cf. 1927, No. 35, s. 17

20. Regulations—(1) The Governor-General may from time to time, by Order in Council, make such regulations as may, in his opinion, be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

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- (a) Prescribing the conditions under which riding schools, livery stables, kennels, shops where pet animals are sold, and animals' boarding establishments may be conducted:
 - (b) Prescribing methods by which, and the conditions under which, horses shall be killed at knackeries:
 - (c) Prescribing the conditions under which animals may be kept or used in, or in connection with, circuses:
 - (d) Prescribing the conditions under which animals may be conveyed on any highway or railway, or in the air, or on any river, lake, harbour, or other waters within New Zealand or its territorial waters:
 - (e) Prescribing the facilities that shall be provided for the loading, unloading, confining, or handling of animals:
 - (f) Prescribing fines, not exceeding twenty pounds in any case, for the breach of any regulation made under this Act.
- (3) All regulations made under this section shall be laid before Parliament.

Cf. 1953, No. 41, s. 13 (2) (c)

21. Repeals, revocation, and saving—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) The Hare Coursing and Bird Shooting Regulations 1954 are hereby revoked.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

SCHEDULE

Section 21 (1)

ENACTMENTS REPEALED

- 1924, No. 37—The Poultry Act 1924: Section 6. (1957 Reprint, Vol. 12, p. 102.)
- 1927, No. 35—The Police Offences Act 1927: Sections 7 to 17. (1957 Reprint, Vol. 12, p. 13.)
- 1932, No. 11—The Finance Act 1932: So much of the First Schedule as relates to section 15 of the Police Offences Act 1927. (1957 Reprint, Vol. 5, p. 90.)
- 1938, No. 15—The Stock Amendment Act 1938: Section 3. (1957 Reprint, Vol. 15, pp. 235, 257.)
- 1939, No. 19—The Meat Act 1939: Section 60. (1957 Reprint, Vol. 9, p. 474.)
- 1953, No. 31—The Wildlife Act 1953: Paragraphs (m) and (n) of subsection (2) of section 72.
- 1953, No. 59—The Police Offences Amendment Act 1953. (1957 Reprint, Vol. 12, p. 80.)
- 1955, No. 42—The Dogs Registration Act 1955: Section 31. (1957 Reprint, Vol. 4, p. 281.)
- 1955, No. 85—The Police Offences Amendment Act 1955: Section 4. (1957 Reprint, Vol. 12, p. 81.)
- 1957, No. 87—The Summary Proceedings Act 1957: So much of the Third Schedule as relates to section 14 (1) of the Police Offences Act 1927.
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