

# **GUIDANCE ON THE ANIMAL WELFARE PROVISIONS (PART 2) OF THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006**

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## **INTRODUCTION**

1. These Guidance Notes are intended to complement the welfare provisions of Part 2 of the Animal Health and Welfare (Scotland) Act 2006. They have been prepared by the Scottish Executive in order to aid understanding by providing general guidance on the content of the Act and where appropriate, to give additional notes on its general and specific provisions. They do not form part of the Act and have not been endorsed by Parliament.

2. These Guidance Notes are not, and are not meant to be, a comprehensive description of the Act. This guidance is intended to be used as a reference document and needs to be read in conjunction with the Act. Whilst these notes are intended to be as helpful as possible, they cannot give a definitive interpretation of the law. Only the Scottish courts have that power.

## **BACKGROUND**

3. Part 2 of the Act consolidates and modernises animal welfare legislation for Scotland. The main purposes of the welfare provisions of the Act are to promote the welfare of animals and prevent harm through measures such as introducing a duty of care on those responsible for animals and allowing animals either suffering or in danger of suffering to be removed.

4. The main provisions of Part 2 of the Act replace a number of existing provisions in animal welfare legislation and are designed to prevent animal cruelty, promote animal welfare and protect animals in distress. The Act makes it an offence to cause a protected animal unnecessary suffering or to fail to take reasonable steps to ensure the welfare of animals for which a person is responsible (the duty of care), prohibits the giving of animals as prizes, raises the age at which young people can be sold animals, re-affirms the specific offence of abandonment and strengthens the provisions for offences involving animal fights. It increases the penalties for certain offences and allows an inspector or constable to take possession of an animal which is suffering or likely to suffer. It allows the courts to make orders to deprive a person of possession or ownership of an animal on conviction for certain offences; and to disqualify a person from participating in animal-related activities following conviction for certain offences.

5. The Act gives Scottish Ministers the power to make regulations which will require some animal businesses to be licensed or registered with a local authority. The proposals for any regulations must be consulted on before they are presented to Parliament for approval.

## **GUIDANCE ON THE ANIMAL WELFARE SECTIONS**

### **DEFINITION OF “ANIMAL” – SECTION 16**

6. “Animals” are defined as vertebrates other than man. The vertebrate family includes all creatures which are mammals, birds, reptiles, amphibians and fish. Invertebrates such as insects, shellfish, crustaceans and cephalopods are not “animals” for the purpose of this part of the Act. It is possible, however, for this definition to be amended by the Scottish Ministers, if scientific evidence shows that other creatures are able to experience pain or suffering. The provisions of Part 2 of the Act do not apply to an animal whilst it is in its foetal or embryonic form (although this too can be changed).

### **PROTECTED ANIMALS AND RESPONSIBILITY FOR ANIMALS**

#### **- SECTIONS 17 and 18**

7. Having established a definition for “animal” the Act then defines “protected animals”. For an animal to be classed as a “protected animal” it needs to satisfy just one of the following conditions:

- it is of a kind commonly domesticated in the British Islands. (Animals that are of a kind commonly domesticated in the British Islands include feral domestic animals such cats, sheep, goats and ponies); or
- it is under the control of man on a temporary basis (as, for example, where a animal is caught in a trap set by man; or where a wild bird is being ringed by an ornithologist) or on a permanent basis (as, for example in the case of farmed deer or ostriches, or penguins kept in a zoo); or
- it is not living in a wild state (as, for example, where a parrot or non-native snake or reptile escapes from captivity and, not being native to the British Islands, cannot be said to be living in a wild state even though it is living in the wild).

8. “Protected animals” include the kinds of animals whose collective behaviour, life cycle, or physiology has been altered as a result of their breeding and living conditions being under human control for multiple generations. Livestock, poultry, horses, cats and dogs are all protected animals whether they are in captivity or living wild as “feral” animals. Thus feral cats, sheep, goats or ponies are “protected animals” for the purpose of the Act. Other animals living in the wild which have not had their behaviour, life cycle or physiology altered by being under human control, such as pheasants or deer, are not classed as protected animals. When man has made an animal dependent on him, then the animal should continue to be protected. Wild rabbits, mice and rats are not protected animals unless they are under the control of man as they are not of a “kind” commonly domesticated in the British Islands. The domestic rabbit, mouse and rat is quite different to the wild kind, and the fact that some kinds of animals can be domesticated, does not mean that all such animals are then “protected”. The British Islands means the United Kingdom, the Channel Islands and the Isle of Man.

9. Farmed deer are protected animals as they are under the control of man. However, wild deer are not protected animals, even where the land manager provides supplementary food or fodder for them nor is a farmed deer which has escaped from the farm and is living in a wild state. If,

however, deer are managed in such a way that the land available to them is restricted to such an extent that they cannot live in a wild state, then they must be considered to be under the control of man and therefore are “protected” animals. The situation is similar for game birds raised for sport shooting. Whilst the birds are under the control of man and kept in cages or pens, they are “protected”, but when released into the wild, they cease to be protected animals as they are not animals commonly domesticated in the British Islands, nor are they under the control of man.

10. The welfare of animals which are not “protected animals” for the purposes of this Act is covered by other legislation such as the Wildlife and Countryside Act 1981 and the Wild Mammals Protection Act 1996.

11. The welfare provisions of the new Act distinguish between the duties owed towards an animal by “the man in the street” and by a person who is responsible for the animal. Naturally, the duties of a person responsible for the animal are greater.

12. Responsibility for an animal is only intended to arise where a person can be said to have assumed responsibility for its day to day care, or for a specific purpose, or by virtue of owning it. The owner is always regarded as having a responsibility for an animal. But that responsibility can be shared by another person who is in charge of the animal. This applies whether the person owns the animal or is in charge of the animal on a temporary or permanent basis. For example, if a horse were stabled at a livery yard, both the horse owner and the operator of the livery yard would have responsibility for the welfare of the horse. The owner would have a responsibility to ensure that the livery yard was a suitable place to leave the horse. The livery yard would have a responsibility for the day to day welfare of the horse. Where a DIY livery arrangement had been made, the livery yard operator would not normally be expected to have a responsibility for the day to day welfare of the animal. However, he or she would have a responsibility for the welfare of a horse if the horse owner or the person contracted to take care of the animal failed to attend to it.

13. A further example of shared responsibility is where a livestock owner employs a livestock manager. The owner has responsibility to ensure that the person employed is competent and knowledgeable about the livestock under his or her control.

14. If an animal is abandoned, the person responsible for it continues to be responsible for the animal even after it has been abandoned. Taking care of a stray cat has caused problems in the past. Where a person has given a stray cat a home and is feeding it so that the animal becomes dependent on that person, it could be considered to be abandonment if that person were to remove the cat from their home (if, for example, it required costly veterinary treatment) no matter in what way they had become responsible for the cat.

15. Where a person under 16 years of age is responsible for an animal, the person who has care and control of that young person is also responsible for the animal. This seeks to ensure that an adult can normally be identified as a person responsible for an animal.

## **UNNECESSARY SUFFERING – SECTION 19**

16. Unnecessary suffering can be caused in one of two ways; either by taking action which causes unnecessary suffering, or by failing to take steps to prevent unnecessary suffering. The infliction of pain, even if extreme, is not in itself sufficient to constitute unnecessary suffering, as

the pain may be caused for beneficial reasons such as in surgery or other medical treatment. Therefore, consideration must be given to whether the pain or suffering was necessary.

17. The courts will be able to take a number of factors into consideration in determining whether suffering is unnecessary. These include whether the suffering could reasonably have been avoided or reduced; compliance with any relevant enactment, licence or code of practice issued on a statutory basis; the purpose of the conduct; the proportionality of the suffering to the purpose; and whether the conduct was that of a reasonably competent and humane person.

18. Suffering includes mental as well as physical and suffering. Thus it is an offence to unnecessarily infuriate or terrify a protected animal as well as cause physical pain. A police horse on riot control duty may be subject to physical and mental suffering, but that suffering would normally not be considered to be unnecessary as using a horse in such a situation is for a legitimate purpose, i.e. protecting people or property.

19. It is an offence for any person, by an act, to cause unnecessary (physical or mental) suffering to a protected animal where the person committing the act knew or ought reasonably to have known, that the act would cause, or would be likely to cause, suffering. In addition, where a person is responsible for an animal, an offence would be committed if unnecessary suffering was caused to the animal by them failing to take some action, where that person knew or ought reasonably to have known that the omission would cause, or would be likely to cause, suffering. It is not necessary to show that the person actually knew that their act or omission would cause suffering, but only that they ought to have known.

20. It should be noted that a person only commits an offence of causing unnecessary suffering by omitting to take some action, if that person is responsible for the animal. Thus a person does not commit an offence by failing to feed a feral cat or pony if that person is not responsible for the animal.

21. The destruction of an animal in an appropriate and humane manner is not unnecessary suffering. However, destruction must not cause suffering over and above that necessary. In the vast majority of cases protected animals will be destroyed by a qualified and trained person, usually a vet. However, emergency situations arise such as mercy killing at roadsides, where there is no reasonable alternative to destroying an animal. Nevertheless, even in these emergency situations, the animal must be destroyed in an appropriate and humane manner. The term “appropriate and humane” is not defined in the Act, and is for the courts to interpret having regard to all the circumstances of the case.

## **MUTILATIONS – SECTION 20**

22. Mutilation (that is the interference with the sensitive tissues or bone structure of an animal) of a protected animal is prohibited unless, either the purpose of the mutilation is medical treatment or the procedure is permitted by regulations. Permitted procedures will be specified in regulations and will include most normal farming practices (such as castration of lambs and the disbudding of calves). Medical treatment includes surgical treatment.

23. It is an offence to take (or cause another person to take) a protected animal from Scotland for the purpose of having a “prohibited procedure” undertaken. This includes, but is not limited to,

a “working” dog being taken to England or any dogs being taken to Ireland or elsewhere for the purpose of having their tails docked. This prohibition applies to any protected animal being taken to any place outwith Scotland for the purpose of having any procedure undertaken which is prohibited in Scotland.

## **CRUEL OPERATIONS AND THE ADMINISTRATION OF POISONS - SECTIONS 21 and 22**

24. It is an offence for a person to perform an operation on a protected animal without due care and humanity. It is also an offence for a person, who is responsible for an animal, to permit another person to perform an operation on that animal without due care and humanity or to fail to take reasonable steps to prevent that from happening. Whilst, it is difficult to envisage circumstances in which such an offence would be prosecuted except where it appeared that an animal had suffered, it is not necessary to *prove* that the animal suffered to establish the commission of the offence.

25. It is an offence for a person to administer a poisonous drug or substance to a protected animal or to cause a poisonous drug or substance to be taken by a protected animal, if that person knew that the drug or substance was poisonous. The exception to both offences is where there is lawful authority or reasonable excuse. These offences include administering drugs and substances which are poisonous or injurious due to quantity or manner in which they are administered or taken. Thus, for example, the offences would include feeding an animal a large quantity of salt, or an excessive quantity of sugar or other foods in such a way or in such quantities as to be injurious.

26. It would not be an offence for a veterinary surgeon to administer drugs which have potentially harmful side effects to an animal because the veterinary surgeon has lawful authority to provide medical treatment to animals. Similarly, where a farmer, on veterinary advice, adds veterinary medicine which may have harmful side effects to animal feed, he has a reasonable excuse for doing so. However, it would be an offence to feed a protected animal rat poison but, as vermin are not protected animals, it would not be an offence to lay down rat poison as long as it was done in an appropriate manner and took reasonable precautions to prevent access by domestic animals.

27. It is an offence for a person to permit the administration of a poisonous or injurious substance or drug to an animal, for which he or she is responsible, unless the person administering the drug or substance has lawful authority or reasonable excuse. Where a person knows the drug or substance to be injurious or poisonous, that person must take reasonable steps to prevent any other person administering it to any animal, for which the first person is responsible.

28. Under this section it is not necessary to show that the animal did in fact suffer as a result of the substance being administered or taken in order to establish liability. But it is necessary to show that the person accused of the offence knew the poisonous or injurious nature of the substance administered to or taken by the animal.

## **ANIMAL FIGHTS – SECTION 23**

29. The Act creates a number of specific offences in relation to animal fights and ensures that these acts which were offences under the Protection of Animals (Scotland) Act 1912 continue to be a criminal offence. The main offences are arranging or attending a fight, allowing premises to be used for an animal fight, accepting money for admission to an animal fight and making or accepting

a bet on an animal fight. Some of the offences in the new Act can be committed without a fight having taken place. For example, the offence of making arrangements for an animal fight would not depend on a fight actually taking place. An animal fight could be arranged which is later cancelled, but the offence would still have been committed.

30. An animal fight is defined as an occasion on which a protected animal is placed with an animal or with a human for the purpose of fighting, wrestling or baiting. This means that an animal fight will be deemed to have taken place, even if both animals are wild animals, as the definition of protected animal includes any animal under the control of man. Dog fighting, cock fighting, bear and badger baiting are all prohibited as are bull fighting, kangaroo “boxing” and certain rodeo events such as bull wrestling. Allowing a cat to chase a wild mouse or a bird is not an animal fight as the cat (the protected animal) has not been placed with the mouse or bird (the animal) for the purpose of fighting, wrestling or baiting.

31. It is an offence to keep or train an animal for an animal fight and to possess equipment which is designed or adapted for use at an animal fight. However, no offence will have been committed if the person possessing the equipment can show lawful authority or reasonable excuse for possessing the articles. For example, no offence would be committed by a museum which exhibited cock fighting spurs, or an animal welfare organisation which possessed animal fighting equipment which it used for training or education purposes.

32. It is an offence to supply or publish a video recording of an animal fight, to show a video recording of an animal fight to another person, or to possess a video recording of an animal fight with the intention of supplying it to another person. These offences only apply if the animal fight took place in Great Britain after the date on which the Act came into force. Thus it is not an offence to distribute or show a recording of a bull fight which took place in Spain or a rodeo which took place in the USA. A video recording includes DVDs, computer discs or any other device in which a moving image can be reproduced.

33. The offences in the Act do not apply to broadcasting, anything done for law enforcement, and anything done in the course of any other lawful activity done in the public interest or with a view to the public interest being served. It would not be an offence for an enforcement officer or a member of the Scottish SPCA to attend an animal fight to obtain evidence for a prosecution or for a reporter to be present at an animal fight if the intent was to write an article to expose the criminal activities.

## **ENSURING WELFARE OF ANIMALS – SECTION 24**

34. Where someone is responsible for an animal, they have a positive duty to do all that is reasonable in all the circumstances to ensure that needs of the animal are met to the extent required by good practice. The vast majority of pet owners will be doing all that they need to do to comply with this requirement and it is not intended to criminalise somebody who is unable to take his or her dog for a walk one day.

35. Codes of Practice for many species of livestock are available and although issued under the Agriculture (Miscellaneous Provisions) Act 1968 are, nevertheless, still in force. These codes give practical advice on how to take care of animals, and should be used when considering whether an animal keeper is meeting his or her responsibility to meet the welfare needs of an animal. Codes for

other animals, including companion animals, will be issued but it will be some time before they are available.

36. In considering whether a person has complied with these requirements, the court is required to take into account all relevant circumstances. However there are certain specific matters which the court must take into consideration when deciding whether a person has committed an offence. These are “any lawful purpose for which the animal is kept” and “any lawful activity undertaken in relation to the animal”. This provision recognises that some lawful practices may prevent or hinder a person from ensuring that certain welfare needs are met, and requires the court to take that into account when considering what is reasonable in the circumstances of each case. For example, a dog used for search and rescue purposes may be placed in a dangerous situation but such an activity would not give rise to an offence.

37. Anyone who has care of an animal must provide for its needs. These needs include:

- **the need for a suitable environment** (including appropriate accommodation or shelter and a comfortable resting area);
- **a suitable diet**, which should be adequate to maintain full health and vigour through every phase of life;
- **the ability to exhibit normal behaviour**, this could be met by providing sufficient space, appropriate facilities as well as the company of the animal’s own kind;
- **the need to be protected from suffering, injury and disease**. Animals should be protected from fear and distress by providing conditions which avoid mental suffering. Problems should be diagnosed quickly and appropriate treatment should be provided for sick or injured animals. Where necessary this treatment should be by a veterinary surgeon.

These are not exhaustive, but are examples of an animal’s needs which the court can take into consideration when deciding whether an offence has been committed.

38. Like the section on “Unnecessary suffering” the Act allows the destruction of an animal in an appropriate and humane manner. As described in paragraph 21, that must not cause suffering over and above that necessarily caused by appropriate and humane destruction of the animal. It in vast majority of cases we would expect an animal to be destroyed by a qualified and trained person, usually a vet.

## **CARE NOTICES – SECTION 25**

39. Inspectors appointed or authorised under the Act, such as local authority animal health and welfare inspectors, the State Veterinary Service and inspectors from the Scottish SPCA, have the discretion to serve care notices. The notices can be served on a person if it appears to the inspector that a person responsible for an animal is failing to secure its welfare in such a way that may constitute an offence. This provision can be used on occasions when an inspector does not wish to pursue an immediate prosecution for a breach of the welfare offence. The ability to issue a care

notice provides the opportunity to allow the person responsible for the animal to rectify the situation within a specified period of time. It is an offence to fail to comply with the notice, unless there is a reasonable excuse.

40. There is no requirement for an inspector to issue a care notice. It is, however, a valuable option and one which could be used in a number of cases where the welfare provisions are not being fully met but the animal is not suffering or is not likely to suffer for the duration of the notice. A care notice can only be issued to rectify a failure to meet the requirements of the need to secure welfare, it cannot be issued where unnecessary suffering is suspected.

41. A care notice must specify the date on which the failure came to the notice of the inspector, the nature of the failure, and the reason that it appears to the inspector why it constitutes an offence. The compliance period of the notice is flexible. The inspector could specify a short time period (e.g. 24 hours) for urgent action to be taken or a longer period (e.g. 4 weeks) for a longer term solution. An inspector can, at his or her discretion, extend the compliance period.

42. Once a care notice has been served it will not be possible to prosecute the person who has been served with the notice for the offence itself or for failure to comply with the care notice until the compliance period (set out in the care notice) has expired. However, if after issuing a care notice the situation were to deteriorate and the animal was in danger of suffering, it would be possible for the inspector to take possession of the animal. In such circumstances it may be possible to prosecute for an offence under the unnecessary suffering provisions of the Act.

43. If the person complies with the care notice no proceedings for the offence specified in the care notice may be taken for the period between the offence coming to the attention of the inspector and the end of the compliance period. However, if the offence were to be repeated after the compliance period, the inspector could issue another care notice or prepare a case for prosecution.

## **SECONDARY LEGISLATION – SECTIONS 26 and 27**

44. The Act gives Scottish Ministers the power to make regulations to secure the welfare of animals, for which a person is responsible, and their progeny. The inclusion of progeny in this section enables regulations to be made governing animal breeding to protect the progeny as well as the parent. The Act provides a non-exhaustive list of the type of provision which may be made in regulations such as prescribing general or specific requirements or prohibitions, provision for enforcement, provision in relation to offences and post conviction orders. A non-exhaustive list of the matters to which requirements and prohibitions may relate is provided as are examples of the issues which may be addressed in such regulations including the prevention of suffering, the breeding and rearing of animals and the transportation of animals.

45. Scottish Ministers are also able to make regulations which will require certain activities involving animals to be licensing or registered. These regulations can apply to activities where a person is responsible for animals for the purposes of securing the welfare of animals. It is intended that certain activities involving animals for which a person is responsible (such as pet dealing, pet shops, animal sanctuaries, animal boarding establishments, dog breeding, livery yards and riding establishments) will be made subject to a requirement in secondary legislation that the person carrying out the activity be either licensed by, or registered with, a local authority.

46. Registration will be used in cases where it is necessary for the enforcement authority to know of the existence and location of organisations or individuals who are keeping specific animals or carrying out particular activities. Registration may be required where it is considered that the additional controls and costs of a licensing regime are either unnecessary or would be unduly burdensome.

47. The Act sets out the types of provision that regulations for both licensing and registration may include: enforcement; the creation of offences; the imposition of penalties; post-conviction orders; the conferring of powers on specified individuals (such as powers of entry, search, inspection and seizure in connection with breaches and suspected breaches of provisions of the regulations); the creation of an offence of obstructing a person who is exercising their powers under this section; and for exemptions from or qualifications to an offence under the regulations.

48. All proposes for regulations must be consulted on before the regulations are presented to Parliament for their approval. Normally for the regulations to be published in draft and issued to interested persons and organisations. It will be usual for the consultation period to last 12 weeks.

## **PROHIBITION ON KEEPING CERTAIN ANIMALS – SECTION 28**

49. This section gives the Scottish Ministers power to make regulations to prohibit the keeping of certain types of animals at domestic and other premises. The main purpose of this section is to give the Ministers the power to prohibit the private keeping of certain animals. However, regulations can only be made under this section for animal welfare purposes. It will be necessary for Scottish Ministers to have a consultation on proposals for regulations with interested bodies and organisations before the regulations are presented to Parliament.

50. “Domestic premises” are defined as premises or a part of premises used exclusively as a dwelling house including any land or structure belonging to or enjoyed with or adjacent to the house. Scottish Ministers can, however, define the meaning of “other premises” in the regulations. The provision to add “other premises” as places where the keeping of certain animals can be prohibited in any premises which are not suitable. Without this additional provision it might be possible to prohibit the keeping of a primate in a house but not, for example, in an office.

51. Zoos, defined as establishments licensed under the Zoo Licensing Act 1981 have been specifically exempted from this section. However, zoos are not exempt from the need to ensure that the needs of an animal are met under the welfare section of the Act.

52. The Act sets out examples of the types of provision which may be included in the subsequent regulations. These include provision for enforcement, offences, penalties, post-conviction orders, the conferring of powers on specified individuals (such as powers of entry, search, inspection, and seizure) and for provision for exemptions or exceptions to the regulations. Scottish Ministers must have regard to whether adequate care is capable of being made and likely to be made for animals at the type of premises concerned before prohibiting the keeping of animals on such premises.

## **ABANDONMENT – SECTION 29**

53. This Act contains a specific offence of abandonment. The Act provides that a person commits this offence in two ways, either permanent or temporary abandonment:

- The abandonment of an animal for which they are responsible in circumstances likely to cause it unnecessary suffering. This provision is designed to deal with the situation where an animal, such as a cat, dog or horse, is taken to a place and left. Examples have included dogs tied to doorways and horses left on road side verges.
- Leaving an animal unattended for which a person is responsible and failing to make adequate provision for its welfare. This provision is intended to cover a situation where an animal is not abandoned on a permanent basis but is left without adequate provision being made for its welfare.

54. No time periods have been specified after which it can be assumed that an animal has been abandoned. We believe that this will vary according to the individual circumstances of each case and from animal to animal. This section gives a non-exhaustive list of the factors that the court is to have regard to when considering whether adequate provision has been made for the animal. This includes the kind of animal, its age, state of health, the length of time for which it has been left and its requirements for food and water, and shelter and warmth. An adult cat with access to a cat flap, water and dried cat food could be left for a longer period than a young puppy, before the animal could be considered to be abandoned. An abandoned animal does not need to have suffered for an offence to have been committed. The offence would have been committed if the animal was abandoned in circumstances which were likely to cause it unnecessary suffering.

55. When introducing or re-introducing animals to the wild, care needs to be taken to ensure that they are able to survive and will not be in danger of suffering. This means that rescued injured animals should not be released until fit enough to fend for themselves and that animals being introduced to the wild for the first time such as pheasants or fish should be sufficiently mature to have a reasonable chance of survival. In the case of pheasants, it may be necessary for supplementary food to be provided for a short period until the birds learn to feed themselves.

## **SALE OF ANIMALS TO CHILDREN – SECTION 30**

56. This section raises the age at which a young person can legally buy an animal. The offence is to **sell** an animal to a person under 16 years. It is not an offence for someone under 16 to buy an animal. It is a defence if the seller believed that the purchaser was 16 or over and was either shown evidence of the purchaser's age or had no reasonable cause to suspect from the purchaser's appearance that they were under 16.

57. Whilst a young person under 16 cannot legally buy an animal, it is not an offence for that person to own an animal, including being the "registered" owner or keeper of the animal. This will allow young people under 16 to continue to show or exhibit animals in their name. However, the legal responsibility for the welfare of the animal does not rest with the young person, but rests with the adult who has the care and control of that young person, or the adult with whom the young person resides.

## **OFFERING ANIMALS AS PRIZES – SECTION 31**

58. This section creates an offence for a person to offer or give another person an animal as a prize, the only exception being where the “prize” is given within a family context. Examples of offences include to offer or give goldfish as prizes at funfairs, raffle livestock at agriculture shows, organise newspaper or magazine competitions where the prize is a horse or pony, or organise any competition at a fete or club where an animal is the prize. If the raffle prize is an egg, as is sometimes the case at pigeon or birds shows, that would not be an offence, as an egg is an animal in its embryonic form, and thus not an “animal” under the definition of animal in the Act.

59. The exception to this offence is where the “prize” is given within a family context. This will allow a parent, guardian or other family member to give a dog, or other pet, to a child as a prize or reward for success in exams or at a family event. Such action would not constitute an offence.

## **TAKING POSSESSION OF ANIMALS – SECTION 32**

60. This section allows an inspector or constable to take action where they find a protected animal which appears to be suffering or is likely to suffer if its circumstances do not change. Where a protected animal appears to be suffering, an inspector or constable may take steps which he or she considers need to be immediately taken to alleviate that suffering. This can be done without the need to seek the view of a veterinary surgeon. Such action could include providing feed or water for the animal, opening a gate or a door to allow the animal out of an enclosed area, or making arrangements for a car door to be opened where necessary if an animal was suffering from heat stress.

61. An inspector or constable has the power to take possession of a protected animal if a veterinary surgeon certifies that the animal is suffering or is likely to suffer if its circumstances do not change. In order for a veterinary surgeon to reach an opinion he or she may examine and take samples from the animal. However, where it is reasonable not to seek the assistance of, or wait for, a veterinary surgeon an inspector or constable can take possession of an animal without veterinary certification if it appears that the animal is suffering or likely to suffer. This would apply to circumstances when the action required is urgent, such as discovering an animal in danger of dehydration in a vehicle in direct sunshine. An inspector or constable may also take into possession any dependent offspring. For example if it appears that a bitch with a litter of young puppies is suffering, then the bitch and the puppies could be taken into possession to ensure that the puppies’ welfare needs can continue to be met.

62. Where an inspector or constable has taken possession of an animal, they may take it, or arrange for it to be taken, to a place of safety (such as an animal welfare centre). Alternatively, they may care for the animal at the place where it was found (in which case they can make use of any equipment taken or found at the place). In some cases this may be a better way to deal with a number of large animals such as livestock or horses. Where a constable or inspector takes possession of an animal, he or she may, or arrange for, the animal to be marked, microchipped or identified by some other method.

63. Any reasonable expenses incurred by an inspector or constable in taking steps to alleviate suffering or taking possession of an animal under this section can be recovered from the owner or other person responsible for that animal as a civil debt.

64. However, the destruction of an animal cannot be undertaken under the provisions of this section. If the destruction of an animal were thought to be necessary it can only be undertaken by a constable or an inspector without seeking the view of a veterinary surgeon if the conditions set out in section 35 are met. These conditions require that the condition of the animal is such that there is no reasonable alternative to destroying it.

### **RELEASE ORDERS WHERE ANIMALS TAKEN – SECTION 33**

65. A court, on summary application by the owner or any other person appearing to the court to have sufficient concern for the animal, can make an order which will specify to whom an animal taken into possession by an inspector or constable is to be delivered. Applications for these orders could be made by a number of people including, the animal's owner, the person who had the responsibility for the animal before it was removed, the person who took possession of the animal, or the owner or manager of the sanctuary or rescue centre where the animal is being looked after.

66. A wide range of people will be entitled to be heard by the court where an application for release of the animal is being considered. These are the owner, an inspector, a constable who took the animal into possession and is caring for the animal or arranged for its care, a person with whom an arrangement for the care of the animal has been made and who is authorised to be heard by the Scottish Ministers in relation to the application, and a person who appears to the court to have a sufficient concern for the animal.

67. Whilst the welfare of the animals is paramount, nevertheless, in determining what order to make, the court must take into consideration the desirability of protecting the value of the animal and of avoiding any increase in the expenses which may need to be reimbursed by a person responsible for the animal.

### **DISPOSAL ORDERS WHERE ANIMALS TAKEN – SECTION 34**

68. After an animal has been taken into possession a court can make a disposal order in relation to that animal. The court may order that specified treatment be administered to the animal, and/or order that the animal be: destroyed; sold; or disposed of in another manner. The animal's owner, an inspector, a constable who took the animal into possession and is caring for the animal or arranged for its care, a person with whom an arrangement for the care of the animal has been made and who is authorised by the Scottish Ministers to make the application and any other person appearing to the court to have sufficient concern for the animal are all entitled to make an application to the court. It may be appropriate for an application to be made to the court for a disposal order before the outcome of a prosecution for an offence under a section of the Act was known. Before a court makes an order under this section, it must give the owner of the animal the opportunity to make representations unless it is not practicable to do so. It would not be practical to do so if the owner was not known, for example, where an animal had been abandoned.

69. People entitled to be heard in relation to an application for a disposal order are broadly the same as those entitled to make an application to the court. In addition, a person with whom an arrangement for the care of the animal has been made may be heard if they have been authorised to be heard by the Scottish Ministers. A court may not make a disposal order involving the destruction of an animal unless it is satisfied on the evidence of a veterinary surgeon (given orally or in writing) that destruction would be in the interests of the animal.

70. Whilst the welfare of the animals is paramount, nevertheless, when determining what order (if any) to make, the court must have regard to the desirability of protecting the value of the animal, and of avoiding any increase in the expenses which may need to be reimbursed by a person responsible for the animal. The order made by the court may appoint a person to carry out the terms of the order, make provision for the reimbursement of any expenses and make other provision as appropriate.

71. If the owner of the animal is subject to any liability for costs incurred when the animals were removed and cared for or for other expenses under this section, any sum due to the owner from any proceeds of the sale of the animal may be used to repay that liability. Thus if the court orders that the animal(s) be sold, the costs incurred by the police or the inspectors and others in removing the animal, caring for the animal (including veterinary costs and medicines), feeding the animal etc, may be deducted from the proceeds of the sale and any money left after these deductions would be given to the owner of the animal.

### **RESORT TO DESTRUCTION OF ANIMALS – SECTION 35**

72. An inspector or constable may destroy or make arrangements for the destruction of a protected animal where a veterinary surgeon certifies the condition of the animal is such that destruction is appropriate. The veterinary surgeon may examine and take samples from an animal with a view to forming an opinion on whether the destruction of the animal is the most appropriate course of action.

73. An inspector or constable may destroy or take steps for the destruction of a protected animal without veterinary certification if it appears to the inspector or the constable that the condition of the animal is such that there is no reasonable alternative to destroying it and it is reasonable in the circumstances not to seek or wait for veterinary advice. This provides for emergency situations such as mercy killing of severely injured animals at roadsides.

74. Reasonable expenses incurred by an inspector or a constable in destroying an animal are recoverable from the owner or an other person responsible for the animal.

### **ANIMAL WELFARE BODIES – SECTION 36**

75. Scottish Ministers have the power to make regulations to establish a body to provide them and others with relevant advice concerning the welfare of protected animals. Scottish Ministers can also issue regulations in order to facilitate or improve co-ordination between bodies which have functions relating to the welfare of animals.

### **ANIMAL WELFARE CODES – SECTION 37**

76. Codes are already widely used to promote the welfare of farmed animals and the Act provides for their use to be extended to non-farmed animals. The existing codes on the welfare of farmed animals (which have been made under section 3 of the Agriculture (Miscellaneous Provisions) Act 1968) will continue in force.

77. Scottish Ministers have the power, after appropriate consultation, and subject to the approval of Parliament, to issue and revise codes which provide practical guidance in relation to the

provisions of the animal welfare part of the Act or regulations made under that part of the Act. Ministers must publicise animal welfare codes in an appropriate manner. Normally this will involve issuing a News Release and sending copies of the Codes to industry bodies and interested organisations.

78. Failure to comply with a provision of an animal welfare code is not in itself an offence, however, the courts can refer to the appropriate codes when making a judgement as to whether an offence has been committed under the welfare provisions of the Act. Owners and keepers of animals may therefore find the codes a useful resource of information and advice on how to provide acceptable welfare standards for their animals.

### **ANIMAL WELFARE GUIDANCE – SECTION 38**

79. This section allows Scottish Ministers to issue general statutory guidance on issues which relate to the securing of animal welfare. Unlike the guidance which can be given in the animal welfare codes, this guidance does not require to be directed to persons responsible for protected animals. This section allows for more general guidance which can be produced with a view to securing the welfare of protected animals. For example, this section allows Ministers to issue guidance on how to control the spread of ragwort, which is poisonous to horses and cattle, to land managers even if they are not responsible for any animals.

### **DEPRIVATION ORDERS – SECTION 39**

80. A court on convicting a person of a relevant offence under the Act can make an order, in addition to or instead of any other penalty, depriving an animal owner of possession or ownership (or both) of an animal in relation to which an offence was committed. This order can also extend to dependent offspring of the animal subject to the order. The relevant offences under which a deprivation order can be made are: causing unnecessary suffering; mutilation; cruel operations; administration of poisons etc; animal fights; failing to ensure the welfare of an animal; failure to comply with a care notice; abandonment; and owning or keeping an animal in breach of a disqualification order. However, the court is required, wherever practicable, to allow the animal's owner an opportunity to make representations before the court makes an order. Where a person has been convicted of a relevant offence and the court decides not to make a deprivation order, the court must state the reasons why it has reached that decision, unless the court has made a disqualification order.

81. A deprivation order can order the destruction of an animal, or its disposal by way of sale or any other way which the court thinks appropriate. The order could, for example, give the animal to an animal welfare organisation such as the Scottish SPCA, the Dogs' Trust or the International League for the Protection of Horses.

82. Before ordering the destruction of an animal the court must be satisfied, on the basis of veterinary evidence, that this would be in the best interests of the animal. The veterinary surgeon can provide his or her evidence either orally or in writing. Therefore the veterinary surgeon does not necessarily require to attend the court in person but can provide evidence via alternative methods (such as video link, teleconferencing or in writing).

83. The only exception to the requirement that the destruction must be in the interests of the animal is where the order applies to an animal which has been the subject of a prosecution under the animal fighting section of the Act. In such cases the court could order the destruction of an animal for reason other than the welfare of that animal. For example the court could take into consideration other factors such as public safety.

84. The deprivation order can include provisions for appointing someone to carry out the order, requiring delivery of relevant animals, conferring powers of entry on the person appointed to carry out the order and such other provision as the court considers appropriate.

#### **DISQUALIFICATION ORDERS – SECTION 40**

85. On convicting a person of a relevant offence, a court can make an order in addition to, or instead of, any other penalty disqualifying that person from one or a number of activities relating to animals. The relevant offences are: causing unnecessary suffering; mutilation; cruel operations; administration of poisons; animal fights; failing to ensure the welfare of an animal; failure to comply with a care notice; abandonment; and failure to comply with a previous disqualification order. If the court does not make a disqualification order when convicting a person of a relevant offence it must state its reasons for not doing so.

86. A disqualification order disqualifies a person from participating in one or more of a range of animal-related activities. These activities are: owning or keeping animals (or both); dealing in animals; transporting animals; working with or using animals; riding or driving animals; providing any service relating to animals which involves taking possession of animals (this could include dog walking or pet grooming businesses); taking possession of an animal for the purpose of an activity in respect of which one of the foregoing disqualifications is imposed; and taking charge of animals for any, or any other, purpose. It will be for the court to decide exactly which activities the disqualification order will cover.

87. A disqualification may be imposed on a person in relation to animals generally or animals of a particular kind. Thus a court may, for example, use its discretion under this subsection to disqualify a person who has been convicted for failure to ensure the welfare of livestock, only from keeping livestock, but not domestic pets. A court can also make a disqualification order to restrict the number of animals of a particular kind (or kinds) which a person may own or keep (instead of prohibiting the owning or keeping of all such animals). This is intended to cover the situation where a person is convicted of a relevant animal welfare offence but the court considers it appropriate to make an order restricting the number of animals that the person can keep, rather than prohibiting them from keeping animals altogether. It would be possible, for example, for the disqualification order to state that the person is disqualified from keeping animals except two dogs and three cats. The disqualification can be for a specific length of time or it can be a lifetime ban.

88. Where a disqualification order restricting the number of animals that a person may own or keep is breached, all animals that the person owns or keeps are to be treated as being owned/kept in breach of the order. This provision is necessary for the proper operation of any subsequent deprivation orders. Without such a provision, disputes could arise as to which particular animals are kept in breach of the order.

89. Disqualification from any animal-related activity disqualifies the person subject to the order from any participation in that activity. The Act provides examples of the types of activities which a person subject to an order is disqualified from undertaking. These are making arrangements in connection with the activity, being party to arrangements under which the activity may be controlled or influenced, and being concerned in the management or control of a body whose business involves the activity. This will ensure that a person disqualified from keeping or owning livestock cannot simply transfer the ownership of the animals to a spouse or other family member, and continue to work with them. It is an offence to breach a disqualification order.

90. The section does provide an exception where a disqualification order includes disqualification from taking charge of animals for any (or any other) purpose. A person subject to such a disqualification may take charge of an animal (for so long as is necessary in the circumstances) if no other arrangements for its care are reasonably available and the disqualified person takes charge of the animal, with the consent of the owner or keeper of the animal for the purposes of caring for the animal, or for the purpose of alleviating suffering. We expect that such cases will be rare. But this provision will allow a disqualified person to take control of an animal on a temporary basis if no one else is available and it is necessary for welfare reasons for the animal to be looked after. An example would be a person responsible for an animal being admitted urgently to hospital. It would not be an offence for a neighbour to look after that person's animal if no other arrangements could be made in the time available.

91. The court can suspend the operation of a disqualification order to enable practical arrangements to be made for the animals affected, including their re-homing, or while an appeal takes place. However, if inspectors have reason to believe that the animal or animals are suffering or are in danger of suffering they are able to take possession of the animal(s) as detailed in paragraphs 60 – 64 above.

92. A person can apply to the court to have a disqualification order terminated or varied, such as a reduction in the length of time that the disqualification will be enforced. However, the court is able to specify a minimum length of time which must pass before the person who is the subject of a disqualification order may make such an application to the court.

## **SEIZURE ORDERS WHERE DISQUALIFICATION BREACHED – SECTION 41**

93. This section gives the court power, where that court is satisfied that a person subject to a disqualification order owns or keeps any animal in breach of that order, to make an order that the animals so owned or kept by the disqualified person be seized. A seizure order can be made following summary application to the court by an inspector where it appears that a person is owning or keeping animals in breach of a disqualification order. The order may be made by the court even if proceedings have not, or are not, or are not likely to be, taken against the person for breaching a disqualification order. The purpose of this section is to have a power to remove animals from a person who has been disqualified from keeping animals, even although the animals he or she is keeping are not suffering or in danger of suffering.

94. In some ways a seizure order is similar to a deprivation order and may deprive a person of possession or ownership of an animal (or both) and provide for the destruction, sale or other disposal of the animal. Seizure orders can include provisions for: appointing the person who is to carry out the order; and requiring delivery of the animal in question. The order may include such

other provision as the court considers appropriate, such as requiring the disqualified person to reimburse any reasonable expenses incurred in carrying out the order, and make provisions about what should happen to any proceeds from the sale or other disposal of the animals. The seizure order may also include provision authorising a person appointed to carry out the order, and anyone acting on their behalf, to enter any premises where the animal subject to the seizure order is kept.

95. The court may not make a seizure order involving the destruction of an animal unless it is satisfied on the evidence of a veterinary surgeon that destruction would be in the interests of the animal. A veterinary surgeon may provide evidence in relation to the destruction of an animal, either orally or in writing, before a seizure order is made by a court. Therefore a veterinary surgeon does not necessarily require to attend the court in person but can provide evidence via alternative methods (such as video link, teleconferencing or in writing).

96. The court is required to give the owner of the animals concerned the opportunity (where practicable) to make representations to the court prior to making a seizure order and must consider both protecting the value of any animal and avoiding increasing expenses when determining whether to make a seizure order.

97. The court may make an interim order in relation to the keeping of an animal before the application for a seizure order is determined. The interim order will be effective until the application for a seizure order and any appeal is determined.

#### **TERMINATION OR VARIATION OF DISQUALIFICATION – SECTION 42**

98. A person who has been the subject of a disqualification order may apply to the court which made the disqualification order to have the order applying to them terminated or varied. Such an application cannot be made within a year from the date that the disqualification order was made, within a year of a previous application being decided, a time period set by the court which made the disqualification order, or a time period set by the court when considering a previous application to terminate or vary the order.

99. The court may refuse the application, terminate the disqualification order or vary the order to relax the conditions of the order, such as reducing the disqualification period, allowing certain activities to be undertaken and/or allowing some animals to be exempt from the order. It would be possible, for example, for the court to vary an order which disqualified a person from keeping all animals, so that it applied only to livestock. When considering a request to terminate or vary an order the court must consider the nature of the offence which resulted in the disqualification, the character of the applicant and the applicant's conduct since the order was made.

#### **APPEALS AGAINST ORDERS – SECTION 43**

100. Appeals can be made against deprivation, disqualification and seizure orders. Where a deprivation or disqualification order is imposed it is to be treated for the purposes of any appeal as part of the convicted person's sentence. Any appeal will follow the appeal procedure set out in the Criminal Procedure (Scotland) Act 1995 (c.46) for appeals against sentence.

101. Any person who has an interest in an animal to which a deprivation order applies may appeal to the High Court of Justiciary against the order using the appeal procedure set out in the

Criminal Procedure (Scotland) Act 1995 (c.46) for appeals against sentence. It would be possible for a person who has care of an animal in an animal sanctuary to appeal against a deprivation order, for example, if the deprivation order were to order the destruction on an animal but the animal sanctuary believed that the animal should be given to them.

102. In relation to a seizure order, the disqualified person or any person who entered the process prior to the making of the order may appeal to the Sheriff Principal.

103. The operation of any deprivation or seizure order is suspended until the periods for appeal against the order and conviction have expired and any appeal has been withdrawn or determined. Where the operation of a deprivation or seizure order is suspended or inexecutable the court may make an order making interim provision in relation to any animal to which the suspended order applies for as long as the suspended order remains suspended or inexecutable. The kind of provision which could be made in such an interim order include appointing a person to ensure that the order is carried out, requiring a person possessing the animal to give it up to an appointed person, and allowing a person to enter premises where an animal to which the order applies is kept.

104. Where the operation of a deprivation order has been suspended a person commits an offence if he or she sells or disposes of the animal to which the order applies.

#### **PROCEEDINGS FOR ANIMAL FIGHTING OFFENCES – SECTION 44**

105. Unless otherwise provided, proceedings for a statutory offence must normally be brought within 6 months *of the offence being committed* if the offence may only be tried summarily (i.e. by a sheriff without a jury) (Criminal Procedure (S) Act 1995 s.136). Proceedings are deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, provided that the warrant is executed without undue delay. However, this section extends that time period for offences under the animal fighting section of the Act, to a maximum period of 6 months *from the date on which evidence sufficient in the prosecutor's opinion to justify proceedings came to the knowledge of the prosecutor*. A certificate by the prosecutor setting out the date on which such evidence came to the prosecutor's knowledge is sufficient to provide evidence of that fact.

106. No proceedings can be brought more than 3 years after the commission of the offence, and, in the case of a continuous contravention, 3 years after the last date on which the offence was last committed. Nevertheless, in the case of a continuous contravention, the whole period of the contravention may be included in the offence charged (even if part of it occurred outwith the time limits specified above).

#### **PENALTIES FOR OFFENCES – SECTION 46**

107. Except in the case of an animal fight offence or an offence which caused an animal unnecessary suffering, a person who commits an offence under Part 2 is liable on summary conviction to imprisonment for up to 6 months or to a fine up to level 5 (currently £5,000) on the standard scale, or to both. For animal fighting and unnecessary suffering, a person who commits an offence is liable on summary conviction to imprisonment for up to 12 months or to a fine not exceeding £20,000 or to both.

108. A person who commits an offence under regulations made under Part 2 of the Act is liable on summary conviction to the penalty specified in the regulations, but these penalties cannot exceed imprisonment of up to 6 months or a fine up to level 5 on the standard scale, or to both.

#### **EXCLUSIONS – SECTION 47**

109. As the subject matter of the Animals (Scientific Procedures) Act 1986 is reserved to the Westminster Parliament, the animal welfare provisions in Part 2 of the Animal Health and Welfare (Scotland) Act 2006 do not extend to animals being used in scientific procedures. However, animals on premises where these procedures are carried out are not excluded from these provisions when the animals are not involved in scientific procedures.

110. Anything done in the normal course of fishing is also excluded from the provisions of Part 2 of the Act. This exclusion covers sea fishing and angling but not fish farming. Fish on fishing boats are not covered under the Act, but the welfare of fish transported after landing is covered.

#### **VETS, INSPECTORS AND CONSTABLES – SECTION 49**

111. A “veterinary surgeon” is defined as a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966.

112. An “inspector” for the purposes of any provision of Part 2 of the Act, is a person either appointed or authorised as a inspector by the Scottish Ministers; or a person appointed as an inspector by a local authority. In practice this will mean officers of the State Veterinary Service and local authority animal health and welfare officers, employed in Trading Standards and Environmental Health Departments. Individual inspectors of the Scottish Society for the Prevention of Cruelty to Animals (Scottish SPCA) will be authorised as “inspectors” by Scottish Ministers for the purpose of dealing with animals in distress and empowered to issue “care notices” (paragraphs 39 – 43). This will give authorised Scottish SPCA inspectors the same powers as inspectors appointed by local authorities to take possession of animals which are suffering or are in danger of suffering, and to apply to the court for a release order or a disposal order, in respect of animals which they have seized.

113. Inspectors will not incur civil or criminal liability for anything which they do in exercising any functions conferred on them, if they have reasonable grounds for such action and act in good faith. This does not affect any liability of any other person in respect of any action undertaken.

#### **PREMISES – SECTION 50**

114. For the purposes of Part 2 of the Act “premises” are defined as including any land or building, or any other place including a vehicle or vessel, tent or moveable structure.

115. “Domestic premises” are defined as meaning premises or parts of premises used exclusively as a dwelling house and as including land or structure belonging to or usually enjoyed with the house. This could include a garage, garden or garden shed.

## **SCHEDULES**

### **Schedule 1 – Powers of inspectors and constables for Part 2**

116. This schedule specifies the powers and duties of those exercising powers of entry, inspection or search under Part 2 of the Act and provides clarification on conditions for granting warrants, stopping and detaining vehicles, and offences of obstruction.

117. Inspectors have the power to enter and inspect any premises to ascertain compliance with any regulations made under Part 2 of this Act which implements a European Community obligation. However this power of entry does not extend to domestic premises.

118. An inspector or a constable is able to enter and search premises for the purpose of exercising any power conferred by section 32, which allows them to take possession of animals in distress, and section 35, which allows them to destroy animals, without a warrant if this is in the immediate interest of the animal. However this power of entry does not extend to domestic premises.

119. Where there are reasonable grounds for believing that a protected animal is suffering or likely to suffer if its circumstances do not change, a sheriff or justice of the peace may grant a warrant which will allow the inspector or constable to enter and search the premises where the animal is located. This warrant can authorise an inspector or constable to enter and search domestic premises.

120. An inspector may enter and inspect (but not search) any premises without a warrant (apart from domestic premises) if there are reasonable grounds for believing an offence under part 2 of the Act has been committed at the premises. An inspector or constable may enter premises (except domestic premises) without a warrant and search to gather evidence in relation to a relevant offence only where it appears that delay would frustrate the purpose for which the search is to be carried out.

121. A Sheriff or justice of the peace may grant a warrant if satisfied that there are reasonable grounds for believing that a relevant offence has been committed at the premises or that evidence of the commission of or participation in a relevant offence is to be found at the premises. The warrant, which is valid for one month, authorises the inspector or constable to enter the premises and to search for, examine and seize any animal (including the carcase of an animal), document, or any other thing which may provide evidence of an offence under sections 19 to 23, section 24, section 29 and section 40(11) of the Act.

122. A warrant can only be granted if admission to the premises has been refused, or that it is reasonable to expect that admission will be refused; and that notice of the intention to seek a warrant has been given to the occupier of the premises, or that the giving of such notice would frustrate the purpose of the warrant. In most cases an inspector or constable would have to give notice of his or her intention to seek a warrant, but this would not be necessary where, for example, it was suspected that a animal fight was about to take place. Giving notice of an intention to seek a warrant would simply warn the fight organisers of an impending operation by the enforcement agency.

123. A constable in uniform, or an inspector accompanied by a constable in uniform, can stop and detain a vehicle or vessel for as long as is reasonably required in order to exercise a relevant power.

124. An inspector or constable may be accompanied by other people and take equipment onto premises in order to exercise the relevant power. This could include being accompanied by a vet, a specialist in a certain kind of animal to provide expert advice, or an Agricultural Officer or bringing a trailer etc. onto premises to assist in the transportation of relevant animals. It is possible for an inspector or a constable to carry out tests and take samples for animals, animal carcasses, equipment or substances and to identify an animal.

125. A constable may arrest any person without a warrant if he or she believes that person to be committing or to have committed an offence under the sections in Part 2 which deal with: Unnecessary suffering (section 19); Mutilations (section 20); Cruel Operations (Section 21); Administration of poisons (Section 22); Animal Fights (Section 23); or under paragraphs 14 or 15 of Schedule 1 – Offences of obstruction.