

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Animal Health

Section 8 – Seizure of carcasses etc.

29. Section 8 of the Act (inserting new sections 36ZA and 36ZB into the 1981 Act) makes provision for the Scottish Ministers to make an order to allow for the seizure and disposal of items which might be capable of carrying or transmitting any disease in relation to which any of the new slaughter powers inserted by sections 1, 2 and 11 (Section 11 makes provision as to Transmissible Spongiform Encephalopathy (TSE) and includes a power of slaughter in this connection) is exercisable.
30. Subsections 36ZA(1) to (3) provide that the Scottish Ministers may by order make provision for the seizure and destruction of anything (other than a living animal (meaning any mammal except man), bird or amphibian) which might carry or transmit a relevant disease, being diseases in relation to which the slaughter powers under section 16B, Part 2B or Schedule 3A of the 1981 Act (inserted by sections 1, 2 and 11 of the Act respectively) are exercisable. Objects which could be seized by an order made under this section could include: infected implements; carcasses; creatures' bedding; and their faeces etc.
31. Subsection 36ZA(4) creates an offence in connection with the throwing or placing of a carcass or anything else obtained from or produced by an animal, bird or amphibian slaughtered under section 16B, Part 2B or Schedule 3A into a river, stream, canal, navigation or other water or in the sea within 4.8 kilometres of the shore.
32. Section 36ZB provides that the Scottish Ministers must pay compensation for anything seized under section 36ZA.
33. Subsection (2) provides that this mandatory obligation to pay compensation does not extend to paying compensation for the seizure of carcasses or other things produced by or obtained from creatures. The mandatory compensation will be in relation to objects seized such as farm equipment and creature housing.
34. In the case of carcasses seized under section 36ZA(1) and other things produced by or obtained from creatures being seized, subsection (3) allows the Scottish Ministers to provide (by order) compensation at their discretion.
35. Subsection (4) makes provision for the payment of compensation at "value" for things seized, whilst subsection (5) extends that compensation provision to things which could have been seized under section 36ZA(1) but which were destroyed, buried or disposed of under an order made under section 23(e) of the 1981 Act.

*These notes relate to the Animal Health and Welfare (Scotland)
Act 2006 (asp 11) which received Royal Assent on 11 July 2006*

36. Subsection (6) gives the Scottish Ministers power to make ancillary provision as to how values are to be ascertained and to regulate how applications for compensation are made and the mode of payment of compensation.