

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 25 – Care notices

131. **Section 25** provides inspectors appointed or authorised under the Act with the discretion to serve a care notice on a person responsible for an animal if that person is failing to secure the welfare of the animal and it appears to the inspector that this failure constitutes an offence under section 24. This provision recognises that there may be occasions when an inspector does not wish to pursue a prosecution immediately under section 24, and provides the opportunity to allow the person responsible for the animal to rectify the situation within a fixed period of time.
132. Subsection (2) outlines the information which must be included in a care notice. A care notice must specify the nature of the failure along with the reason that it appears to constitute an offence under section 24, and also the date on which the failure came to the notice of the inspector.
133. Once a care notice is served it will not be possible to prosecute the person who has been served with the notice for an offence under section 24 or for failure to comply with the care notice until the compliance period (set out in the care notice) has expired. Subsection (4) provides that where a person complies with a care notice no proceedings for the offence specified in the care notice may be taken in respect of the default period.
134. 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. Subsection (6) provides the inspector with the flexibility to extend the compliance period.
135. Subsection (7) provides it is an offence to fail to comply in a material regard with a care notice without reasonable excuse.