

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 34 – Disposal orders where animals taken

162. This section sets out the disposal orders which a court can make in relation to animals that have been taken into possession under section 32. The court may order that specified treatment be administered to an animal, and/or order that the animal be: destroyed, sold, or disposed of in another manner (subsection (1)).
163. Subsection (4) specifies the persons who are entitled to make an application to the court under this section (the owner, an inspector, a constable who took the animal into possession, 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).
164. Subsection (5) specifies the persons entitled to be heard in relation to such an application. These 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 under section 32 may be heard if they have been authorised by the Scottish Ministers. Subsection (6) provides that the 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.
165. In addition, 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 (subsection (7)).
166. Subsection (8) provides that in 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 (subsections (2) and (3)).
167. Subsection (9) provides that if the owner of the animal is subject to any liability under section 32(11) or subsection (3) of this section, any sum due to the owner from any proceeds of the sale of the animal under this section may be used to repay that liability.
168. [Schedule 1](#) paragraph 15(1)(b) makes it an offence for a person to intentionally obstruct an inspector or constable from using any of the powers conferred on him by an order under subsection (1) of this section.