

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 41 – Seizure orders where disqualification breached

200. This section gives the court power, where it 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 be seized.
201. Subsection (2) provides for a seizure order to 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 an offence under section 40(11).
202. Subsection (3) provides that a seizure order made under subsection (1) 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.
203. Subsection (4) sets out provisions which may be included in a seizure order. These are: appointing the person who is to carry out the order; requiring delivery of the animal in question; and by virtue of subsection (5) requiring the disqualified person to reimburse any reasonable expenses incurred in carrying out the order. 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.
204. Subsection (4)(c) provides that the order may include such other provision as the court considers appropriate. Examples of the kind of provision which might be included are given in subsection (5).
205. Subsection (6) provides that 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).
206. Subsection (7) requires the court to give the owner of the animals concerned the opportunity (where practicable) to make representations to the court prior to making a seizure order.

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

207. Subsection (8) requires the court to consider both protecting the value of any animal and avoiding increasing expenses when determining whether to make a seizure order.
208. Subsection (9) provides for the making of an interim order pending the final determination of a seizure order. The court may make an interim order in relation to the keeping of an animal before the application for a seizure order is determined and which has effect until such time as the application and any appeal is determined. Subsection (10) provides that subsections (4), (5)(a) and (8), which relate to seizure orders, also apply to interim orders.