

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 18 – Responsibility for animals

99. The welfare provisions of the Act distinguish between the duties owed towards an animal by the man in the street and the duties owed by a person who is responsible for an animal. Naturally, the duties of the responsible person are greater. In order that it is clear whether a person is responsible for an animal or not, section 18 makes specific provision as to who is the person “responsible” for an animal for the purposes of the animal welfare provisions of the Act.
100. 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 to be regarded as responsible for an animal. But, in addition, a person who is in charge of the animal is also responsible for it. This applies whether the person owns or is in charge of the animal on a temporary or permanent basis. If an animal is abandoned, the person responsible for it continues to be responsible for the animal even after it has been abandoned.
101. 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 their animal (subsection (4)). This seeks to ensure that an adult can normally be identified as a person responsible for an animal.
102. As noted above, responsibility for animals is a key concept in the welfare provisions, particularly in determining a person’s duties in relation to sections 19 (unnecessary suffering), 20 (mutilation), 21 (cruel operations) 22 (administration of poisons etc.), 24 (ensuring the welfare of animals), 25 (care notices) and 29 (abandonment). Similarly, the regulation-making power in section 26 (provision for securing welfare) can be exercised only in relation to animals for which a person is responsible. The same is true for the provisions allowing for the making of regulations about licensing and registration under section 27.