



# Animal Health and Welfare (Scotland) Act 2006 2006 asp 11

## PART 2

### ANIMAL WELFARE

#### *Prevention of harm*

#### **19 Unnecessary suffering**

- (1) A person commits an offence if—
  - (a) the person causes a protected animal unnecessary suffering by an act, and
  - (b) the person knew, or ought reasonably to have known, that the act would have caused the suffering or be likely to do so.
- (2) A person who is responsible for an animal commits an offence if—
  - (a) the person causes the animal unnecessary suffering by an act or omission, and
  - (b) the person knew, or ought reasonably to have known, that the act or omission would have caused the suffering or be likely to do so.
- (3) A person (“person A”) who is responsible for an animal commits an offence if—
  - (a) another person causes the animal unnecessary suffering by an act or omission, and
  - (b) person A—
    - (i) permits that to happen, or
    - (ii) fails to take such steps (whether by way of supervising the other person or otherwise) as are reasonable in the circumstances to prevent that happening.
- (4) The considerations to which regard is to be had in determining, for the purposes of subsections (1) to (3), whether suffering is unnecessary include—
  - (a) whether the suffering could reasonably have been avoided or reduced,

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- (b) whether the conduct concerned was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment,
  - (c) whether the conduct concerned was for a legitimate purpose, for example—
    - (i) the purpose of benefiting the animal, or
    - (ii) the purpose of protecting a person, property or another animal,
  - (d) whether the suffering was proportionate to the purpose of the conduct concerned,
  - (e) whether the conduct concerned was in the circumstances that of a reasonably competent and humane person.
- [<sup>F1</sup>(4A) In determining for the purposes of subsection (1) whether suffering is unnecessary in a case where it was caused by conduct for a purpose mentioned in subsection (4)(c) (ii), the fact that the conduct was for that purpose is to be disregarded if—
- (a) the animal was under the control of a relevant officer at the time of the conduct,
  - (b) it was being used by that officer at that time, in the course of the officer's duties, in a way that was reasonable in all the circumstances, and
  - (c) that officer is not the person accused of committing the offence under subsection (1).
- (4B) In subsection (4A), “relevant officer” means—
- (a) a constable,
  - (b) a special constable within the meaning of section 9 of the Police and Fire Reform (Scotland) Act 2012,
  - (c) a person (other than a constable or a special constable) who has the powers of a constable or is otherwise employed or engaged to carry out, or assist in the carrying out of, police functions (within the meaning of section 99(1) of that Act),
  - (d) a prisoner custody officer within the meaning of section 114 of the Criminal Justice and Public Order Act 1994.
- (4C) The Scottish Ministers may by regulations modify subsection (4B) to—
- (a) add to the categories of person specified in subsection (4B) other categories of person in the public service of the Crown,
  - (b) vary any category of person for the time being specified in subsection (4B),
  - (c) remove any category of person for the time being so specified.]
- (5) This section does not apply to the destruction of an animal in an appropriate and humane manner.

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#### Textual Amendments

- F1** S. 19(4A)-(4C) inserted (30.11.2020) by [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020 \(asp 14\)](#), **ss. 3, 22(2)**; [S.S.I. 2020/379](#), **reg. 2(1)**, **sch.** (with **reg. 3**)
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#### Commencement Information

- I1** S. 19 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

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## 20 Mutilation

- (1) A person commits an offence if the person—
  - (a) carries out a prohibited procedure on a protected animal, or
  - (b) causes a prohibited procedure to be carried out on a protected animal.
- (2) A person (“person A”) who is responsible for an animal commits an offence if—
  - (a) another person carries out a prohibited procedure on the animal, and
  - (b) person A—
    - (i) permits that to happen, or
    - (ii) fails to take such steps (whether by way of supervising the other person or otherwise) as are reasonable in the circumstances to prevent that happening.
- (3) A person commits an offence if the person takes a protected animal, or causes a protected animal to be taken, from a place in Scotland for the purpose of having a prohibited procedure carried out on the animal at a place outwith Scotland.
- (4) In this section, references to the carrying out of a prohibited procedure on an animal are to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal.
- (5) This section does not apply—
  - (a) in relation to a procedure which is carried out for the purpose of medical treatment of an animal,
  - (b) in relation to a procedure which is carried out—
    - (i) for a purpose which,
    - (ii) in such manner as, and
    - (iii) in accordance with such conditions as,the Scottish Ministers may by regulations specify, or
  - (c) in such circumstances as the Scottish Ministers may by regulations specify.
- (6) Before making regulations under subsection (5), the Scottish Ministers must consult—
  - (a) such persons appearing to them to represent relevant interests, and
  - (b) such other persons,as they consider appropriate.

### Modifications etc. (not altering text)

- C1** S. 20 excluded (21.3.2007) by [The Prohibited Procedures on Protected Animals \(Exemptions\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/256\)](#), regs. 1, 3

### Commencement Information

- I2** S. 20(1)-(3) in force at 30.4.2007 by [S.S.I. 2007/257](#), [art. 2](#)  
**I3** S. 20(4)-(6) in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

## 21 Cruel operations

- (1) A person commits an offence if the person performs an operation on a protected animal without due care and humanity.

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- (2) A person (“person A”) who is responsible for an animal commits an offence if—
- (a) another person performs an operation on the animal without due care and humanity, and
  - (b) person A—
    - (i) permits that to happen, or
    - (ii) fails to take such steps (whether by way of supervising the other person or otherwise) as are reasonable in the circumstances to prevent that happening.
- (3) This section is subject to the Protection of Animals (Anaesthetics) Act 1954 (c. 46).

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**Commencement Information**

**I4** [S. 21](#) in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

## 22 Administration of poisons etc.

- (1) A person commits an offence if, without lawful authority or reasonable excuse, the person—
- (a) administers a poisonous or injurious drug or substance to a protected animal, or
  - (b) causes such a drug or substance to be taken by a protected animal, and the person knows the drug or substance to be poisonous or injurious.
- (2) A person (“person A”) who is responsible for an animal commits an offence if—
- (a) without lawful authority or reasonable excuse, another person—
    - (i) administers a poisonous or injurious drug or substance to the animal, or
    - (ii) causes such a drug or substance to be taken by the animal, and
  - (b) person A—
    - (i) permits that to happen, or
    - (ii) knowing the drug or substance to be poisonous or injurious, fails to take such steps (whether by way of supervising the other person or otherwise) as are reasonable in the circumstances to prevent that happening.
- (3) In this section, references to a poisonous or injurious drug or substance include a drug or substance which, by virtue of the quantity or manner in which it is administered or taken, has the effect of a poisonous or injurious drug or substance.

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**Commencement Information**

**I5** [S. 22](#) in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

## 23 Animal fights

- (1) A person commits an offence if the person—
- (a) keeps or trains an animal for an animal fight, or

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- (b) possesses, without lawful authority or reasonable excuse, any equipment which is designed or adapted for use at an animal fight.
- (2) A person commits an offence if the person—
  - (a) causes an animal fight to take place,
  - (b) arranges an animal fight,
  - (c) participates in making, or carrying out, arrangements for an animal fight (including allowing premises to be used for, or charging admission to attend, an animal fight),
  - (d) makes or accepts a bet on the outcome of an animal fight or on the likelihood of anything occurring (or not occurring) in the course of an animal fight, or
  - (e) takes part in an animal fight.
- (3) A person commits an offence if, without lawful authority or reasonable excuse, the person is present at an animal fight.
- (4) A person commits an offence if the person—
  - (a) supplies a video recording of an animal fight,
  - (b) publishes a video recording of an animal fight,
  - (c) shows a video recording of an animal fight to another person, or
  - (d) possesses a video recording of an animal fight with the intention of supplying it to another person.
- (5) Subsection (4) does not apply if the video recording is of an animal fight which took place—
  - (a) outwith Great Britain, or
  - (b) before the date on which this subsection comes into force.
- (6) Subsection (4) does not apply—
  - (a) in relation to anything done—
    - (i) for the purpose of, or
    - (ii) by means of,the inclusion of a video recording in a programme service,
  - (b) in relation to anything done for the purposes of or in connection with law enforcement (including for the education or training of persons involved in law enforcement), or
  - (c) in relation to anything done in the course of any other lawful activity in so far as the thing is done in the public interest or with a view to the public interest being served.
- (7) For the purposes of subsections (4) to (6)—
  - (a) the expression “programme service” has the same meaning as in the Communications Act 2003 (c. 21),
  - (b) the expression “video recording” means a recording, in any form, from which a moving image may by any means be reproduced (and includes data stored on a computer disc or by other electronic means which is capable of conversion into a moving image),
  - (c) references to supplying or publishing a video recording are to supplying or publishing a video recording in any manner (including, in relation to a video recording in the form of data recorded electronically, by means of transmitting such data),

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- (d) references to showing a video recording are to showing a moving image reproduced from a video recording by any means.
- (8) Any reference in this Part to an animal in relation to which an offence was committed includes, in the case of an offence under this section, an animal involved in the animal fight concerned.
- (9) In this section, an “animal fight” is an occasion on which a protected animal is placed with an animal, or with a human, for the purpose of fighting, wrestling or baiting.

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#### Commencement Information

**I6** [S. 23](#) in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

**Changes to legislation:**

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