



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,

Changes to legislation: There are currently no known outstanding effects for the Animal Health and Welfare (Scotland) Act 2006, Section 19. (See end of Document for details)

- (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.

[^{F1}(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.

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**)

Commencement Information

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

Changes to legislation:

There are currently no known outstanding effects for the Animal Health and Welfare (Scotland) Act 2006, Section 19.