



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

## PART 2

### ANIMAL WELFARE

#### *Post-conviction orders*

#### **40 Disqualification orders**

- (1) Where a person is convicted of a relevant offence, the convicting court may make an order (in this Part referred to as a “disqualification order”) which imposes on the person one or more of the disqualifications specified in subsection (2).
- (2) Those are disqualification from—
  - (a) owning or keeping animals (or both),
  - (b) dealing in animals,
  - (c) transporting animals,
  - (d) working with or using animals,
  - (e) riding or driving animals,
  - (f) providing any service relating to animals (including, in particular, for their care) which involves taking possession of animals,
  - (g) taking possession of animals for the purpose of an activity in respect of which a disqualification mentioned in paragraphs (a) to (f) is imposed,
  - (h) taking charge of animals for any, or any other, purpose.
- (3) For the purposes of subsections (1) and (2), disqualification in respect of an activity includes disqualification from any participation in the activity including, in particular—
  - (a) making arrangements in connection with the activity,
  - (b) being party to arrangements under which the activity may be controlled or influenced,
  - (c) being concerned (so far as relating to the activity) in the management or control of a body whose business involves the activity.

- (4) However, disqualification by reference to subsection (2)(h) does not include disqualification from taking charge of an animal for so long as is necessary in the circumstances—
- (a) with the consent of the owner or keeper of the animal, for the purpose of caring for it,
  - (b) for the purpose of alleviating any suffering of the animal, if no alternative arrangements for its care are reasonably available.
- (5) Where the court decides not to make a disqualification order in relation to a relevant offence, it must state its reasons.
- (6) A disqualification order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to a relevant offence.
- (7) A disqualification order may apply to animals generally or to animals of any particular kind.
- (8) A disqualification order which imposes disqualification from owning or keeping animals of a particular kind may in any appropriate case be framed so as to provide that the disqualification is from owning or keeping more than a specified maximum number of animals of that kind.
- (9) A disqualification order—
- (a) has effect for such period as may be specified in the order,
  - (b) may specify a period within which an application under section 42(1) for termination or variation of the order may not be made.
- (10) The court may suspend the operation of a disqualification order—
- (a) for such period as it considers necessary for enabling arrangements to be made for the keeping of any animals to which the order applies,
  - (b) pending an appeal.
- (11) A person who breaches a disqualification order commits an offence.
- (12) If a disqualification order framed as described in subsection (8) is breached, the breach is to be regarded, for the purpose of—
- (a) any proceedings for an offence under subsection (11),
  - (b) the making of—
    - (i) a deprivation order,
    - (ii) a seizure order,
- as having occurred in relation to all the animals of the particular kind concerned (that is, without restriction by reference to the maximum number specified).
- (13) In this section, a “relevant offence” is—
- (a) an offence under subsection (11),
  - (b) an offence under sections 19 to 23,
  - (c) an offence under section 24 or 25(7),
  - (d) an offence under section 29.