



Animal Health and Welfare (Scotland) Act 2006

2006 asp 11

PART 2

ANIMAL WELFARE

Promotion of welfare

24 Ensuring welfare of animals

- (1) A person commits an offence if the person does not take such steps as are reasonable in the circumstances to ensure that the needs of an animal for which the person is responsible are met to the extent required by good practice.
- (2) The circumstances to which, for the purposes of subsection (1), regard is to be had include—
 - (a) any lawful purpose for which the animal is kept,
 - (b) any lawful activity undertaken in relation to the animal.
- (3) For the purposes of subsection (1), an animal's needs include—
 - (a) its need for a suitable environment,
 - (b) its need for a suitable diet,
 - (c) its need to be able to exhibit normal behaviour patterns,
 - (d) any need it has to be housed with, or apart from, other animals,
 - (e) its need to be protected from suffering, injury and disease.
- (4) This section does not apply to the destruction of an animal in an appropriate and humane manner.

25 Care notices

- (1) If—

- (a) it comes to an inspector’s attention (including on information received from a constable) that a person is failing to secure the welfare of an animal for which the person is responsible, and
- (b) it appears to the inspector that the failure constitutes an offence by the person under section 24,

the inspector may serve on the person a notice (in this section referred to as a “care notice”).

(2) A care notice must—

- (a) specify—
 - (i) the nature of the failure (including the reasons why it appears to the inspector that the failure constitutes an offence under section 24),
 - (ii) the date on which the failure came to the inspector’s attention,
- (b) describe the steps that the inspector considers need to be taken in order for the failure to be rectified,
- (c) require that those steps be taken,
- (d) fix a period (the “compliance period”) within which those steps are to be taken, and
- (e) explain the effect of subsections (3) to (7).

(3) Where a care notice is served, no proceedings for—

- (a) an offence under subsection (7),
- (b) an offence under section 24 which is constituted by the failure specified (or any continuation of it),

may be taken in respect of the default period before the compliance period expires.

(4) Where a person complies with a care notice in every material regard, no proceedings for an offence under section 24 which is constituted by the failure specified (or any continuation of it) may be taken in respect of the default period.

(5) In subsections (3) and (4), the “default period” is the period—

- (a) beginning on the date specified under subsection (2)(a)(ii), and
- (b) ending on the date on which the compliance period expires.

(6) An inspector may extend any compliance period.

(7) A person on whom a care notice has been served commits an offence if, without reasonable excuse, the person fails in a material regard to comply with the notice.

26 Provision for securing welfare

(1) The Scottish Ministers may by regulations make provision for the purposes of, and in connection with, securing the welfare of—

- (a) animals for which a person is responsible,
- (b) the progeny of such animals.

(2) Regulations under subsection (1) may include, in particular—

- (a) provision prescribing general or specific requirements or prohibitions,
- (b) provision for enforcement, other than by way of proceedings for an offence, of provisions of the regulations,
- (c) provision—

Status: This is the original version (as it was originally enacted).

- (i) that breach of a provision of the regulations is an offence,
 - (ii) for penalties as respects the offence,
 - (d) provision for and in connection with post-conviction orders (whether by reference to sections 39 to 43 or otherwise) in relation to an offence under the regulations,
 - (e) provision conferring on persons of a specified description powers of entry, search, inspection and seizure in connection with breaches (and suspected breaches) of provisions of the regulations,
 - (f) provision—
 - (i) that obstructing a person in the exercise of a power conferred by the regulations is an offence,
 - (ii) for penalties as respects the offence,
 - (g) provision (whether or not subject to specified conditions) for exemptions from, or qualification to, any requirements, prohibitions or offences provided for in the regulations.
- (3) For the purpose of subsection (2), requirements and prohibitions may, in particular, relate to—
 - (a) the prevention of suffering,
 - (b) the way in which animals are looked after and the conditions in which they are kept,
 - (c) the identification of animals (whether by use of marks, microchips or otherwise),
 - (d) the breeding and rearing of animals,
 - (e) how animals are transported,
 - (f) how animals are prepared for killing and are killed,
 - (g) hygiene,
 - (h) the prevention of disease and of the spread of disease,
 - (i) the keeping of records.
- (4) Regulations under subsection (1) may also make provision for fees or other charges in relation to the exercise of functions under the regulations.
- (5) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) such persons appearing to them to represent relevant interests, and
 - (b) such other persons,as they consider appropriate.

27 Licensing etc. of activities involving animals

- (1) The Scottish Ministers may by regulations prohibit the carrying on, without the authority of a licence for the purpose, of an activity which—
 - (a) involves animals for which a person is responsible, and
 - (b) is specified in the regulations.
- (2) The Scottish Ministers may by regulations prohibit the carrying on, without the authority of registration for the purpose, of an activity which—
 - (a) involves animals for which a person is responsible, and
 - (b) is specified in the regulations.

- (3) Regulations under subsection (1) or (2) must be for the purposes of securing the welfare of animals for which a person is responsible.
- (4) Regulations under subsection (1) or (2) may include, in particular—
- (a) provision for enforcement, other than by way of proceedings for an offence, of provisions of the regulations,
 - (b) provision—
 - (i) that breach of a provision of the regulations is an offence,
 - (ii) for penalties as respects the offence,
 - (c) provision for and in connection with post-conviction orders (whether by reference to sections 39 to 43 or otherwise) in relation to an offence under the regulations,
 - (d) provision conferring on persons of a specified description powers of entry, search, inspection and seizure in connection with breaches (and suspected breaches) of provisions of the regulations,
 - (e) provision—
 - (i) that obstructing a person in the exercise of a power conferred by the regulations is an offence,
 - (ii) for penalties as respects the offence,
 - (f) provision (whether or not subject to specified conditions) for exemptions from, or qualification to, an offence under the regulations.
- (5) The Scottish Ministers may by regulations make provision about—
- (a) licences for the purposes of subsection (1),
 - (b) registration for the purposes of subsection (2).
- (6) Such provision may, in particular, relate to—
- (a) procedures for—
 - (i) applying for licences or (as the case may be) registration,
 - (ii) granting and refusing applications,
 - (b) any—
 - (i) qualifications required to be held by applicants for licences or (as the case may be) registration,
 - (ii) other matters to be taken into account when considering applications for licences or (as the case may be) registration,
 - (c) conditions of licences or (as the case may be) registration,
 - (d) suspension and revocation of licences or (as the case may be) registration in specified circumstances,
 - (e) appeals in connection with the matters mentioned in paragraphs (a) to (d).
- (7) Regulations under subsection (5)(a) may include, in particular—
- (a) provision for enforcement, other than by way of proceedings for an offence, of provisions of licences,
 - (b) provision—
 - (i) that contravention of a condition of a licence is an offence,
 - (ii) for penalties as respects the offence,
 - (c) provision for and in connection with post-conviction orders (whether by reference to sections 39 to 43 or otherwise) in relation to an offence under the regulations,

- (d) provision conferring on persons of a specified description powers of entry, search, inspection and seizure in connection with contraventions (and suspected contraventions) of provisions of licences.
- (8) Regulations under subsection (1), (2) or (5) may also make provision for fees or other charges in relation to the exercise of functions under the regulations.
- (9) Before making regulations under subsection (1), (2) or (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.

28 Prohibition on keeping certain animals

- (1) The Scottish Ministers may by regulations prohibit the keeping at—
 - (a) domestic premises,
 - (b) other premises,of any animals of a kind specified in the regulations.
- (2) For the purposes of subsection (1)(b), “other premises”—
 - (a) does not include the premises of a zoo—
 - (i) to which the Zoo Licensing Act 1981 (c. 37) applies, and
 - (ii) which is licensed under that Act,
 - (b) otherwise, means premises of such type as are described in the regulations.
- (3) Regulations under subsection (1) must be for the purposes of securing the welfare of animals.
- (4) Regulations under subsection (1) may include, in particular—
 - (a) provision for enforcement, other than by way of proceedings for an offence, of provisions of the regulations,
 - (b) provision—
 - (i) that breach of a provision of the regulations is an offence,
 - (ii) for penalties as respects the offence,
 - (c) provision for and in connection with post-conviction orders (whether by reference to sections 39 to 43 or otherwise) in relation to an offence under the regulations,
 - (d) provision conferring on persons of a specified description powers of entry, search, inspection and seizure in connection with breaches (and suspected breaches) of provisions of the regulations,
 - (e) provision—
 - (i) that obstructing a person in the exercise of a power conferred by the regulations is an offence,
 - (ii) for penalties as respects the offence,
 - (f) provision (whether or not subject to specified conditions) for exemptions from, or qualification to, an offence under the regulations.
- (5) In determining whether to make regulations under subsection (1) in relation to a type of premises, the Scottish Ministers must have regard to whether (and the extent to which) adequate provision for the welfare of animals of the kind in question—

- (a) is capable of being made, and
 - (b) is likely to be made,
- at that type of premises.

- (6) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) such persons appearing to them to represent relevant interests, and
 - (b) such other persons,
- as they consider appropriate.

29 Abandonment

- (1) A person commits an offence if, without reasonable excuse, the person—
- (a) abandons an animal for which the person is responsible, and
 - (b) does so in circumstances likely to cause it unnecessary suffering.
- (2) A person commits an offence if, without reasonable excuse, the person—
- (a) leaves unattended an animal for which the person is responsible, and
 - (b) fails to make adequate provision for its welfare.
- (3) The considerations to which regard is to be had in determining, for the purposes of subsection (2), whether such provision has been made include—
- (a) the kind of animal concerned and its age and state of health,
 - (b) the length of time for which it is, or has been, left,
 - (c) what it reasonably requires by way of—
 - (i) food and water,
 - (ii) shelter and warmth.

30 Sale of animals to children

- (1) A person (“person A”) commits an offence if person A sells an animal to a person (“person B”) who is under 16 years of age.
- (2) It is a defence to a charge of an offence under subsection (1) for person A to demonstrate that person A—
- (a) having been shown convincing evidence (for example, a passport or a photocard driving licence) of person B’s identity and age, or
 - (b) having no reasonable cause to suspect from person B’s appearance that person B was under 16 years of age,
- believed that person B was aged 16 years or over.
- (3) For the purposes of subsection (1), selling an animal includes transferring, or agreeing to transfer, ownership of the animal in consideration of entry by the transferee into another transaction.

31 Offering animals as prizes

- (1) A person commits an offence if the person offers or gives an animal to another person as a prize.
- (2) Subsection (1) does not apply where the prize is offered or given in a family context.