

EXECUTIVE NOTE

DRAFT: The Animal Health and Welfare (Scotland) Act 2006 (Consequential Provisions) Order 2006

Powers

1. The above Order is made in exercise of powers conferred by section 53(1) of the Animal Health and Welfare (Scotland) Act 2006 (“the Act”), which allows the Scottish Ministers to make consequential provisions by order where they believe that this is necessary or expedient for the purposes of, or in connection with, the Act. This Order amends and repeals provisions in both primary and secondary legislation.

Parliamentary Procedure

2. This Order requires, under section 53(3)(a) of the Act, to be laid in draft and approved by resolution of the Parliament as it amends primary legislation.

Policy Objectives

3. It is necessary to ensure that provisions in a number of Acts which deal with the welfare of animals are amended to include references to the Animal Health and Welfare (Scotland) Act 2006 where appropriate. This will ensure that existing legislation is amended to take account of the provisions in the Act.

The Order

3. The amendment to the **Performing Animals (Regulation) Act 1925** will mean that where a person has been convicted of any offence under sections 19 to 24, 25(7) and 40(11) of the Act or any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act), the court may order that they be removed from the register of those people allowed to exhibit or train performing animals. The court could also disqualify people convicted of these offences from being registered either permanently or for a specific period of time.

4. The order updates the definition of “animal” in the **Cinematograph Films (Animals) Act 1937** and “wild mammal” in the **Wild Mammals (Protection) Act 1996** to be consistent with the definition of “protected animal” in section 17 of the Act .

5. The amendments to the **Pet Animals Act 1951, the Animal Boarding Establishments Act 1963, the Riding Establishments Act 1964, and the Breeding of Dogs Act 1973** will mean that a local authority will not be able to grant a licence, to keep a pet shop, operate a cat or dog boarding establishment, or a riding establishment, or breed dogs on a commercial basis, to any person who has been disqualified under section 28F (1) and (2) of the Animal Health Act 1981 (inserted by section 10 of the Act) or section 40(1) and (2) of the Act. The convicting court will also have the power to cancel any licence issued under the above acts and disqualify a person from keeping a pet shop, a cat or dog boarding establishment, a riding establishment or a dog breeding establishment if that person has been convicted of any offence under section 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act) or any offence under sections 19 to 24, 25 (7), 29 or 40(11) of the Act.

6. **The Guard Dogs Act 1975** is amended to allow the court to cancel any licence issued under that Act where the licence holder has been convicted of any offence under section 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act) or any offence under sections 19 to 24, 25 (7), 29 or 40(11) of the Act.

7 **Dangerous Wild Animals Act 1976** is amended to allow the court to cancel any licence issued under that Act and to disqualify a person from keeping any dangerous wild animals, if that person has been convicted of any offence under section 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act) or any offence under sections 19 to 24, 25 (7), 29 or 40(11) of the Act.

8. The **Criminal Law Act 1977** is amended to remove from section 63(2) of that Act the reference to the Protection of Animals (Amendment) Act 1954 which is repealed by schedule 2, paragraph 9(f) of the Act.

9. The **Zoo Licensing Act 1981** is amended to allow a local authority to refuse to grant a zoo licence to a person who has been convicted of any offence under section 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act) or any offence under sections 19 to 24, 25 (7), 29 or 40(11) of the Act. A local authority may also make a zoo closure direction if the licence holder or any keeper at the zoo is convicted of any such offence.

10. The amendment to the **Animals (Scientific Procedures) Act 1986** means that a person who has been found guilty of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act) or any offence under sections 19 to 24, 25 (7), 29 or 40(11) of the Act in respect of an animal at the designated establishment, can be sentenced on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

11. Schedule 2 amends the Welfare of Animals (Slaughter and Killing) Regulations 1995 to allow an authorised veterinary surgeon to refuse to issue a certificate of competence or a provisional licence or to allow the Food Standards Agency on behalf of the Scottish Ministers to refuse to grant a registered licence for a slaughterman's licence to an applicant who has been convicted of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (inserted by section 10 of the Act) or any offence under sections 19 to 24, 25 (7), 29 or 40(11) of the Act.

12. Schedule 3 removes references in primary legislation to legislation which is repealed by the Animal Health and Welfare (Scotland) Act 2006.

Consultation

13. It has not been necessary to consult on this Order as it simply makes consequential amendments as a result of the Animal Health and Welfare (Scotland) Act 2006. There has been extensive consultation of this legislation before it was introduced to Parliament.

Financial Effects

14. There will be no financial consequences from this Order.

Scottish Executive Environment and Rural Affairs Department

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