



Animal Welfare Act 2006

2006 CHAPTER 45

Scotland

46 Effect in Scotland of disqualification under section 34

- (1) Disqualification by virtue of an order under section 34(1) has effect in relation to Scotland.
- (2) A person who breaches a disqualification under section 34 commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 6 months, or
 - (b) a fine not exceeding level 5 on the standard scale,or to both.

47 Deprivation orders in connection with offence under section 46(2)

- (1) Where a person is convicted of an offence under section 46(2) because of owning or keeping an animal in breach of disqualification under section 34(2), the convicting court may make an order (in this section and sections 49 and 50 referred to as a “deprivation order”) in respect of any animal in relation to which the offence was committed.
- (2) A deprivation order is an order—
 - (a) depriving a person of possession or ownership (or both) of an animal, and
 - (b) for—
 - (i) the destruction,
 - (ii) the sale, or
 - (iii) another disposal,of the animal.
- (3) Where the court decides not to make a deprivation order, it must state its reasons.

- (4) A deprivation order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to the offence.
- (5) A deprivation order may make provision in respect of any dependent offspring of an animal to which it applies.
- (6) A deprivation order may include—
- (a) provision—
 - (i) appointing a person who is to secure that the order is carried out,
 - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i),
 - (b) provision authorising—
 - (i) a person appointed under paragraph (a)(i), and
 - (ii) any person acting on that person's behalf,to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept,
 - (c) such other provisions as the court considers appropriate in connection with the order.
- (7) Provision under subsection (6)(c) may, in particular—
- (a) require reimbursement of any expenses reasonably incurred in carrying out the order,
 - (b) relate to the retention of any proceeds of the disposal.
- (8) The court may not make a deprivation order which involves the destruction of an animal unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the animal.
- (9) Before making a deprivation order, the court must give the owner of the animal concerned an opportunity to make representations unless it is not practicable for it to do so.

48 Seizure orders where disqualification breached: Scotland

- (1) Where the court is satisfied that a person who is subject to disqualification under section 34 owns or keeps an animal in breach of the disqualification, the court may make an order (in this section and sections 49 and 50 referred to as a “seizure order”) in respect of all animals which the person owns or keeps in breach of the disqualification.
- (2) A seizure order may be made—
- (a) on summary application by an inspector,
 - (b) even if proceedings have not been, or are not likely to be, taken against the person for an offence under section 46(2).
- (3) A seizure order is an order—
- (a) depriving a person of possession or ownership (or both) of an animal, and
 - (b) for—
 - (i) the destruction,
 - (ii) the sale, or
 - (iii) another disposal,of the animal.

- (4) A seizure order may include—
- (a) provision—
 - (i) appointing a person who is to secure that the order is carried out,
 - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i),
 - (b) provision authorising—
 - (i) a person appointed under paragraph (a)(i), and
 - (ii) any person acting on that person’s behalf,to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept,
 - (c) such other provision as the court considers appropriate in connection with the order.
- (5) Provision under subsection (4)(c) may, in particular—
- (a) require reimbursement of any expenses reasonably incurred in carrying out the order,
 - (b) relate to the retention of any proceeds of the disposal.
- (6) The court may not make a seizure order which involves the destruction of an animal unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the animal.
- (7) Before making a seizure order, the court must give the owner of the animals concerned an opportunity to make representations unless it is not practicable for it to do so.
- (8) In determining whether or how to make a seizure order, the court must have regard to the desirability of—
- (a) protecting the value of any animal to which the order applies, and
 - (b) avoiding increasing any expenses which a person may be required to reimburse.
- (9) When an application is made under subsection (2)(a), the court may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of an animal until the application is finally determined.
- (10) Subsections (4), (5)(a) and (8) apply in relation to an interim order as they apply in relation to a seizure order.
- (11) In subsection (2)(a), an “inspector” is a person—
- (a) appointed as inspector by the Scottish Ministers, or authorised by them, for the purposes of this section, or
 - (b) appointed as inspector by a local authority for the purposes of this section.
- (12) In subsection (11)(b), a “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

49 Appeals against deprivation orders and seizure orders

- (1) Any deprivation order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995 (c. 46), to be treated as a sentence.

- (2) Where a deprivation order is made, any person (apart from a person who may appeal against the order by virtue of subsection (1)) who has an interest in any animal to which the order applies may appeal to the High Court of Justiciary against the order by the same procedure as applies under subsection (1) in relation to a deprivation order.
- (3) The disqualified person by reference to whom a seizure order is made, or any person (apart from that disqualified person) who entered the process prior to the making of the order, may appeal to the sheriff principal against the order.
- (4) The operation of any deprivation order or seizure order is suspended until—
- (a) any period for an appeal against the order has expired,
 - (b) the period for an appeal against the conviction on which the order depends has expired, and
 - (c) any appeal against the order or that conviction has been withdrawn or finally determined.
- (5) Where the operation of a deprivation order or seizure order is suspended under subsection (4), or such an order is not executable because decree has not been extracted, the court which made the order may make an order under this subsection (an “interim order”) containing such provisions as the court considers appropriate in relation to the keeping of an animal for so long as the first-mentioned order remains suspended or inexecutable.
- (6) An interim order may, in particular—
- (a) make provision—
 - (i) appointing a person who is to secure that the order is carried out,
 - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i),
 - (b) make provision authorising—
 - (i) a person appointed under paragraph (a)(i), and
 - (ii) any person acting on that person’s behalf,
 to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept,
 - (c) for reimbursement of any expenses reasonably incurred in carrying out the order.
- (7) In determining whether or how to make an interim order, the court must have regard to the desirability of—
- (a) protecting the value of any animal to which the order applies, and
 - (b) avoiding increasing any expenses which a person may be required to reimburse.

50 Deprivation orders, seizure orders and interim orders: offences

- (1) Where the operation of a deprivation order is suspended under section 49(4), a person commits an offence if the person sells or otherwise parts with an animal to which the order applies.
- (2) A person commits an offence if the person intentionally obstructs a person in the carrying out of—
- (a) a deprivation order,

- (b) a seizure order,
 - (c) an interim order under section 48(9) or 49(5).
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to—
- (a) imprisonment for a term not exceeding 6 months, or
 - (b) a fine not exceeding level 5 on the standard scale,
- or to both.