



Animal Health and Welfare (Scotland) Act 2006

2006 asp 11

PART 2

ANIMAL WELFARE

Animals in distress

34 Disposal orders where animals taken

- (1) The court may, in relation to any animal taken into possession under section 32, order—
 - (a) that specified treatment be administered to the animal,
 - (b) that the animal be—
 - (i) destroyed,
 - (ii) sold, or
 - (iii) disposed of in another manner.
- (2) An order under subsection (1) may include—
 - (a) provision appointing a person who is to secure that the order is carried out,
 - (b) such other provision as the court considers appropriate in connection with the order.
- (3) Provision under subsection (2)(b) may, in particular, require reimbursement of any expenses reasonably incurred in carrying out the order.
- (4) An order under subsection (1) may be made on summary application by—
 - (a) the owner of the animal,
 - (b) an inspector,
 - (c) a constable who—
 - (i) took the animal into possession under section 32,
 - (ii) is caring for, or has arranged for the care of, the animal under that section,
 - (d) a person—

Changes to legislation: There are currently no known outstanding effects for the Animal Health and Welfare (Scotland) Act 2006, Section 34. (See end of Document for details)

- (i) with whom an arrangement for the care of the animal has been made under that section, and
 - (ii) who is authorised by the Scottish Ministers to make the application,
- [^{F1}(da) an authorised person (as defined in section 32A) who does not fall within paragraphs (b) to (d),] or
- (e) any other person appearing to the court to have a sufficient concern for the animal.
- [^{F2}(4A) A person mentioned in paragraphs (b) to (da) of subsection (4) may only make an application for an order under subsection (1) if a decision notice cannot be served under section 32C(2).]
- (5) A person is entitled to be heard in relation to an application for an order under subsection (1) if (despite not being the applicant) the person is—
- (a) a person mentioned in paragraph (a) to (c) [^{F3}, (da)] or (e) of subsection (4), or
 - (b) a person—
 - (i) with whom an arrangement for the care of the animal has been made under section 32, and
 - (ii) who is authorised by the Scottish Ministers to be heard in relation to the application.
- (6) The court may not make an order under subsection (1) 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 an order under subsection (1), the court must give the owner of the animal an opportunity to make representations unless it is not practicable for it to do so.
- (8) In determining whether or how to make an order under subsection (1), 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) If an owner of an animal is subject to any liability by virtue of—
- (a) section 32(11),
 - (b) subsection (3),
- any sum which the owner is due from any proceeds of sale of the animal under this section may be used to offset the liability.

Textual Amendments

- F1** S. 34(4)(da) inserted (30.9.2021) by [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020 \(asp 14\), ss. 21\(a\), 22\(2\); S.S.I. 2021/303, reg. 2\(e\) \(with reg. 3\)](#)
- F2** S. 34(4A) inserted (30.9.2021) by [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020 \(asp 14\), ss. 21\(b\), 22\(2\); S.S.I. 2021/303, reg. 2\(e\) \(with reg. 3\)](#)
- F3** Words in s. 34(5)(a) inserted (30.9.2021) by [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020 \(asp 14\), ss. 21\(c\), 22\(2\); S.S.I. 2021/303, reg. 2\(e\) \(with reg. 3\)](#)

Commencement Information

- I1** S. 34 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 34.