

*These notes refer to the Welfare of Animals Act (Northern Ireland)
2011 (c.16) which received Royal Assent on 29 March 2011*

Welfare of Animals Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 - Enforcement

Enforcement Powers

Section 21 – Seizure of animals involved in fighting offences

Section 21 confers on a constable power to take possession of an animal in relation to which an offence under section 8 has been committed. The use of this power would ensure that a seized animal could not be involved in further fighting offences.

Section 22 - Entry and search under warrant in connection with offences

This section provides that a lay magistrate may issue a warrant authorising an inspector or a constable to enter premises to search for evidence of offences relating to unnecessary suffering, prohibited procedures, tail docking, administration of poisons, fighting, ensuring welfare, failing to comply with an improvement notice, carrying out relevant activities without a licence or registration, abandonment, or breaching a disqualification imposed under section 33.

Section 23 - Inspection of records required to be kept by holder of licence

This section enables an inspector to require that the holder of a licence, granted under regulations must produce any records that the licence holder is required to keep as a condition of that licence.

Section 24 - Inspection in connection with licences

This section concerns powers of inspection in relation to activities for which it is necessary to obtain a licence. It provides that routine inspections may be carried out to check that licence conditions are being complied with. Currently, in relation to some activities that require a licence, inspections can only be made when inspectors suspect an offence has been committed.

Section 25 - Inspection in connection with registration

This section concerns powers of inspection in relation to activities for which it is necessary to register under section 12.

Section 26 – Inspection of premises to check compliance with regulations made under section 13

This section allows inspectors to enter and inspect premises, except a private dwelling, in order to check compliance with regulations made under section 13 dealing with the prohibition on keeping certain animals.

Section 27 - Inspection of farm premises

This section allows inspectors to enter and inspect farm premises in order to check compliance with regulations made under the Act to secure the welfare of animals bred or kept for farming purposes and in order to ascertain whether an offence under the Act has been committed.

Section 28 - Inspection relating to Community obligations

This section provides a power for inspectors to enter and check compliance with regulations under section 11 which implement a Community obligation to secure welfare of animals. This power mirrors a power contained in the Diseases of Animals (Northern Ireland) Order 1981 as amended. It does not extend to any part of a premises used as a private dwelling (subsection (3)).

Prosecutions

Section 29 - Power of councils to prosecute offences

This section provides a power allowing district councils to initiate prosecution proceedings for any offence under the Act.

Section 30: Time limits for prosecutions

Summary proceedings for an offence under the Act may start at any time within three years of the offence or within twelve months of sufficient evidence being available to justify prosecution.

Post-Conviction Powers

Section 31: Penalties

This section provides that a person found guilty of a range of offences under the Act or regulations made under the Act is liable by summary conviction to imprisonment for a term not exceeding 6 months and/or a fine not exceeding level 5 (currently £5,000). It also sets out the serious offences which the prosecutor can decide to try either by summary conviction or by indictment. The maximum penalty for conviction on indictment is imprisonment for a term not exceeding two years and/or an unlimited fine.

Section 32: Deprivation

This section enables the courts to confiscate an animal from an owner who has been convicted of an offence in relation to that animal. A deprivation order is limited to cases where there is a clearly identifiable animal or animals in respect of which the offence was committed. The court is required to give reasons if it decides not to make a deprivation order against a convicted person.

Section 33: Disqualification

This section confers a power on the court to disqualify a person from owning, keeping or participating in the keeping of animals and from being party to any arrangements to control or influence the way in which animals are kept. Disqualification may be imposed in relation to animals generally or to one or more kinds of animal. The court can also decide the period which must expire before the person, who is the subject of a disqualification order, may apply to have it lifted. The court can also provide for a suspension of a disqualification order pending appeal and has power to suspend a disqualification order to give the disqualified owner or keeper time to make arrangements for the animal.

Section 34: Seizure of animals in connection with disqualification

This section enables a court to combine a disqualification order with an order that any animals owned or kept by the person disqualified be seized, where continued ownership or possession would put the person in breach of the disqualification. Such an order could be made by the court when a person was convicted of any of the offences under the sections relating to unnecessary suffering, prohibited procedures, docking of dogs' tails, administration of poisons, abandonment, fighting, welfare, not complying with an improvement notice, operating without a required licence or registration where this is required or of a breach of a previous disqualification order.

Section 35: Section 34: supplementary

This section sets out powers of the court when it makes an order under section 34. These include appointing a person to carry out the order and a power to give directions concerning the carrying out of the order. It can also provide that the owner of the animal or any other person the court thinks fit must reimburse costs incurred, and can confer additional powers, including powers of entry, on the person appointed to carry out the order.

Section 36: Destruction in the interests of the animal

This section gives the court power, where it is persuaded by a veterinary surgeon that it is appropriate in the interests of the animal, to order the destruction of an animal in respect of an offence under the Act involving unnecessary suffering, prohibited procedures, tail docking, administration of poisons, fighting, ensuring animal welfare or abandonment.

Section 37: Destruction of animals involved in fighting offences

This section allows the court to order the destruction of fighting animals, otherwise than in the interests of the animal, where there has been a conviction for a fighting offence. This power is wider than that accorded in section 36, on the basis that there may be circumstances in which it is appropriate to order the destruction of an animal otherwise than in its own interests, for example, if the animal is considered to be a danger to public safety.

Section 38: Reimbursement of expenses relating to animals involved in fighting offences

This section provides that a court which has convicted a person of an offence under section 8(1) or (2) can require that person, or another person as appropriate, to reimburse police for expenses they have incurred in looking after an animal involved in that offence. This includes animals that took part in the fight in relation to which the offence was committed.

Section 39: Forfeiture of equipment used in offences

This section gives the court power, where a person is convicted of an offence under sections 4, 5, 6(1) or (2), 7 or 8, to order equipment that it considers to have been used in the offences for which the offender has been convicted to be forfeited and destroyed (or otherwise dealt with).

Section 40: Orders under section 32, 34, 36, 37 or 39: pending appeals

This section suspends the operation of various orders relating to animals and equipment under the Act until the possibility of an appeal has expired. It also provides that if an order is suspended under subsection (1), the court may, nevertheless, give directions as to how the animal(s) should be dealt with during the suspension. It also provides that costs which a court directs a person to pay will be recoverable as a civil debt.

Section 41: Orders with respect to licences

This section provides that where a person is convicted of an offence under the sections relating to unnecessary suffering, prohibited procedures, docking of dogs' tails, administration of poisons, abandonment, fighting, or welfare offence, an offence in connection with transferring an animal by way of sale or prize to a person under sixteen, or an offence against regulations made under section 12, the court may cancel any licence held by that person and make an order disqualifying the person from holding such a licence.

Section 42: Termination of disqualification under section 33 or 41

This section enables a person subject to a disqualification order under section 33 or 41 to apply to the court for termination of the disqualification. Applications for termination can be made after one year, and every subsequent year thereafter.

Section 43: Orders made on conviction for reimbursement of expenses

This section clarifies that where a court makes an order for the care or disposal of an animal and a person incurs expenses in carrying out that order, these expenses are recoverable as a civil debt. They are not to be treated as a fine imposed on conviction for the purposes of the Magistrates' Courts (Northern Ireland) Order 1981.

Section 44: Orders for reimbursement of expenses: right of appeal for non-offenders

This section provides that where an order for the reimbursement of expenses is made under sections in the Act against a person other than the person convicted of an offence under the Act, that person will have a right of appeal against the order. The convicted person will already have such a right of appeal by virtue of the Magistrates' Courts (Northern Ireland) Order 1981.