

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Post-Conviction Powers

Section 34: Disqualification

147. Under the Protection of Animals Act 1954 a person convicted of an offence under the Protection of Animals Act 1911 may be disqualified from ‘having custody of’ specified animals for a specified period. However, it has proved difficult in practice to determine in many cases when a disqualified person ‘has custody of’ animals, so as to place him in breach of a disqualification order; and this has limited the effectiveness of such orders. Furthermore, the 1954 Act does not give any power to make consequential orders to provide for the welfare of animals kept or owned by a disqualified person nor does it provide for removal of such animals on conviction for breach of the disqualification. The lack of such a power was commented upon by the Court of Appeal in *Worcestershire County Council v Tongue* (CA 17th February 2004). This section and section 35 are designed to make good this omission.
148. *Subsection (1)* confers a power on the court to disqualify a person from doing the things mentioned in *subsection (2), (3) or (4)* or any combination of those subsections.
149. *Subsection (5)* provides that disqualification may be imposed in relation to animals generally or to one or more kinds of animal. Thus a court may, for example, use its discretion under this subsection to disqualify a person who has been convicted of organising dog fights from owning or keeping dogs, but not any other kind of animal.
150. *Subsection (6)* allows the court to decide the period which must expire before the person who is the subject of a disqualification order may apply to have it lifted. Under the current law, applications can be made after one year, and every subsequent year thereafter (see further section 43).
151. *Subsection (7)* provides for suspension of a disqualification order pending appeal. It also gives the court power to suspend a disqualification order to give the disqualified owner or keeper time to make arrangements for the animal.
152. *Subsection (10)* provides that disqualification orders can be imposed for offences including those relating to cruelty, fighting, welfare, operating without a required licence or without registering where this is required and for a breach of a previous disqualification order.