

# **ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2 – Animal Welfare**

#### ***Section 43 – Appeals against orders***

212. This section provides the rights of appeal available in relation to the orders made under sections 39, 40 and 41.
213. Subsection (1) provides that when a deprivation or disqualification order is imposed it is to be treated for the purposes of any appeal as part of the convicted person's sentence. Any appeal will follow the appeal procedure set out in the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#) for appeals against sentence.
214. Subsection (2) provides that in relation to a deprivation order, as well as those who may appeal in accordance with subsection (1), any person who has an interest in the animal to which the order applies may appeal to the High Court of Justiciary against the order by the same procedure as in subsection (1).
215. In relation to a seizure order, the disqualified person or any person who entered the process prior to the making of the order may appeal to the Sheriff Principal (subsection (3)).
216. Subsection (4) suspends the operation of any deprivation or seizure order until the periods for appeal against the order and conviction have expired and any appeal has been withdrawn or determined.
217. Subsection (5) provides that where the operation of a deprivation or seizure order is suspended or inexecutable the court may make an order making interim provision in relation to any animal to which the suspended order applies for as long as the suspended order remains suspended or inexecutable. Subsection (6) lists examples of the kind of provision which could be made in such an interim order and includes provision to enter premises where an animal to which the order applies is kept.
218. Subsection (8) provides that where the operation of a deprivation order has been suspended, an offence is committed if the person disposes of a relevant animal.