

# Animal Health and Welfare (Scotland) Act 2006

2006 asp 11

## PART 2

### ANIMAL WELFARE

#### *Post-conviction orders*

#### **43 Appeals against orders**

- (1) Any deprivation order or disqualification 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  - (c) any appeal against the order or that conviction has been withdrawn or finally determined.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 provision 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.
- (8) Where the operation of a deprivation order is suspended under subsection (4), a person commits an offence if the person sells or otherwise parts with an animal to which the order applies.