

Draft Order laid before the Scottish Parliament under section 53(3)(a) of the Animal Health and Welfare (Scotland) Act 2006, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2006 No.

ANIMAL HEALTH

**The Animal Health and Welfare (Scotland) Act
2006 (Consequential Provisions) Order 2006**

<i>Made</i>	- - - -	<i>2006</i>
<i>Coming into force</i>	- -	<i>2006</i>

The Scottish Ministers, in exercise of the powers conferred upon them by section 53(1) of the Animal Health and Welfare (Scotland) Act 2006(1) and of all other powers enabling them in that behalf, hereby make the following Order a draft of which has, in accordance with section 53(3)(a) of that Act, been laid before, and approved by resolution of, the Scottish Parliament:

Citation and commencement

1. This Order may be cited as the Animal Health and Welfare (Scotland) Act 2006 (Consequential Provisions) Order 2006 and shall come into force on the day after the day on which it is made.

Consequential amendments and repeals

- 2.—**(1) The enactments listed in Schedule 1 are amended as there specified.
(2) The instruments listed in Schedule 2 are amended as there specified.
(3) The enactments listed in Schedule 3 are repealed to the extent there specified.

St Andrew's House,
Edinburgh
2006

A member of the Scottish Executive

SCHEDULE 1

Article 2(1)

Amendment of Public General Acts

The Performing Animals (Regulation) Act 1925 (c. 38)

1. After section 4(2) of the Performing Animals (Regulation) Act 1925 (offences and legal proceedings), insert—

“(2A) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act, 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act, 2006 \(asp 11\)](#), the court by which he is convicted has the same powers under subsection (2) in relation to such convictions as it has in relation to convictions for offences under this Act.”.

The Cinematograph Films (Animals) Act 1937 (c. 59)

2.—(1) The Cinematograph Films (Animals) Act 1937 is amended as follows.

(2) In section 1(4)(b) (prohibition of films involving cruelty to animals), after “1911”, omit “, and the Protection of Animals (Scotland) Act 1912”.

(3) At the end of section 1(4)(b), insert—

“; and

(c) in relation to Scotland, the expression “animal” means a protected animal within the meaning of section 17 of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#).”.

The Pet Animals Act 1951 (c. 35)

3.—(1) The Pet Animals Act 1951 is amended as follows.

(2) After section 1(2) (licensing of pet shops), insert—

“(2A) Where a person is for the time being disqualified under section 28F(1) and (2) of the Animal Health Act 1981 (c. 22), or section 40(1) and (2) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), notwithstanding subsection (2), a local authority shall not grant a licence to keep a pet shop to that person.”.

(3) After section 5(4) (offences and disqualifications), insert—

“(5) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act, 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act, 2006 \(asp 11\)](#), the court by which he is convicted has the same powers under subsections (3) and (4) in relation to such convictions as it has in relation to convictions for offences under this Act.”.

The Animal Boarding Establishments Act 1963 c.(43)

4.—(1) The Animal Boarding Establishments Act 1963 is amended as follows.

(2) After section 1(2) (licensing of boarding establishments for animals), insert—

“(2A) Where a person is for the time being disqualified under section 28F(1) and (2) of the Animal Health Act 1981 (c. 22), or section 40(1) and (2) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), notwithstanding subsection (2), a local authority shall not grant a licence to keep a boarding establishment for animals to that person.”.

- (3) After section 3(4) (offences and disqualifications), insert–

“(5) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), the court by which he is convicted has the same powers under subsections (3) and (4) in relation to such convictions as it has in relation to convictions for offences under this Act.”

The Riding Establishments Act 1964 (c. 70)

- 5.—(1) The Riding Establishments Act 1964 is amended as follows.

- (2) After section 1(2) (licensing of riding establishments), insert–

“(2A) Where a person is for the time being disqualified under section 28F(1) and (2) of the Animal Health Act 1981 (c. 22), or section 40(1) and (2) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), notwithstanding subsection (2), a local authority shall not grant a licence to keep a riding establishment to that person.”

- (3) After section 4(4) (penalties and disqualifications), insert–

“(5) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), the court by which he is convicted has the same powers under subsections (3) and (4) in relation to such convictions as it has in relation to convictions for offences under this Act.”

The Breeding of Dogs Act 1973 (c. 60)

- 6.—(1) The Breeding of Dogs Act 1973 is amended as follows.

- (2) After section 1(2) (licensing of breeding establishments for dogs), insert–

“(2AA) Where a person is disqualified under section 28F(1) and (2) of the Animal Health Act 1981 (c. 22), or section 40(1) and (2) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), notwithstanding subsection (2), a local authority shall not grant a licence to keep a breeding establishment for dogs to that person.”

- (3) After section 3(4) (offences and disqualifications), insert–

“(4A) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), the court by which he is convicted has the same powers under subsections (3) and (4) in relation to such convictions as it has in relation to convictions for offences under this Act.”

The Guard Dogs Act 1975 (c. 50)

7. After section 3(5) of the Guard Dogs Act 1975 (guard dog kennel licences), insert–

“(5A) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), subsections (4) and (5) apply as they do to convictions under this Act.”

The Dangerous Wild Animals Act 1976 (c. 38)

8. After section 6(3) of the Dangerous Wild Animals Act 1976 (penalties), insert–

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Animal Health and Welfare (Scotland) Act 2006 (Consequential Provisions) Order 2006 No. 536*

“(3A) Where a person is convicted of any offence under sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), subsections (2) and (3) apply as they do to convictions under this Act.”.

The Criminal Law Act 1977 (c. 45)

9. In section 63(2) of the Criminal Law Act 1977 (provisions applying to Scotland), omit “Protection of Animals (Amendment) Act 1954.”.

The Zoo Licensing Act 1981 (c. 37)

- 10.—(1) The Zoo Licensing Act 1981 is amended as follows.
- (2) In section 4(4) (grant or refusal of licence), after “subsection (5)”, insert “, subsection (5A)”.
- (3) After section 4(5), insert—
- sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22);
sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#).”.

The Animals (Scientific Procedures) Act 1986 (c. 14)

- 11.—(1) The Animals (Scientific Procedures) Act 1986 is amended as follows.
- (2) In section 22(5) (penalties for contraventions), after “1911”, omit “or section 1 of the Protection of Animals (Scotland) Act 1912”.
- (3) After section 22(5), insert—
- “(5A) A person guilty of an offence under sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22), or sections 19 to 24, 25(7), 29 or 40(11) of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), in respect of an animal at a designated establishment shall be liable to the penalties specified in subsection (1) above.”.

The Wild Mammals (Protection) Act 1996 (c. 3)

12. For section 3 of the Wild Mammals (Protection) Act 1996 (interpretation), substitute—

“1 Interpretation

1. In this Act “wild mammal” means any mammal which is not a protected animal within the meaning of section 17 of the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#).”.

SCHEDULE 2

Article 2(2)

Amendment of Statutory Instruments

The Welfare of Animals (Slaughter or Killing) Regulations 1995 (SI 1995/731)

1. In paragraph 8(b) of Schedule 1 to the Welfare of Animals (Slaughter or Killing) Regulations 1995 (refusal of a provisional licence, a certificate of competence or a registered licence)—

- (a) in paragraph (viii) after “it;” omit “or”; and
- (b) for paragraph (ix) substitute—
 - “(ix) sections 28C or 28F(16) of the Animal Health Act 1981 (c. 22);
 - (x) sections 19 to 24, 25(7), 29 or 40(11) the Animal Health and Welfare (Scotland) Act 2006 or any regulations made under section 26, 27 or 28 of that Act; or
 - (xi) any other provision concerning the welfare of animals.”.

SCHEDULE 3

Article 2(3)

Repeals

<i>Enactment</i>	<i>Extent of Repeal</i>
Criminal Law Act 1977 (c. 45)	In Schedule 13, the entry relating to the Protection of Animals (Amendment) Act 1954.
Criminal Justice (Scotland) Act 1980 (c. 62)	In Schedule 8, the entry relating to the Protection of Animals (Scotland) Act 1912.
Animals (Scientific Procedures) Act 1986 (c. 14)	Schedule 3, paragraphs 2 and 7.
Criminal Procedure (Scotland) Act 1995 (c. 46)	In Schedule 5, the entry relating to section 1 of the Protection of Animals (Scotland) Act 1912.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 2, Part II the entries relating to the Protection of Animals Act 1934 and the Cockfighting Act 1952.
Crime and Punishment (Scotland) Act 1997 (c. 48)	In Schedule 1, paragraph 19(2). In Schedule 3, the entry relating to the Protection of Animals (Scotland) Act 1912.
Protection of Wild Mammals (Scotland) Act 2002 (asp 6)	Paragraph 3 of the Schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to, and repeals provisions in, primary and secondary legislation relating to animal health and welfare. These amendments and repeals are consequential to the purposes of, or in connection with the [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#).

Article 1 provides that the amendments and repeals will have effect from the day after the Order is made.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Animal Health and Welfare (Scotland) Act 2006 (Consequential Provisions) Order 2006 No. 536*

Article 2(1) and Schedule 1 set out amendments to primary legislation. Article 2(2) and Schedule 2 set out amendments to secondary legislation. Article 2(3) and Schedule 3 set out repeals of primary legislation.