Welfare of Animals Act (Northern Ireland) 2011

2011 CHAPTER 16

An Act to make provision about animal welfare. [29th March 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

INTRODUCTORY

Animals to which this Act applies

1.—(1) In this Act, except in subsections (4) and (6), "animal" means a vertebrate other than man.

(2) Nothing in this Act applies to an animal while it is in its foetal or embryonic form.

(3) The Department may by regulations for all or any of the purposes of this Act—

(a) extend the definition of "animal" so as to include invertebrates of any description;

(b) amend subsection (2) to extend the application of this Act to an animal from such earlier stage of its development as may be specified in the regulations.

(4) The power under subsection (3) may only be exercised if the Department is satisfied, on the basis of scientific evidence, that animals of the kind concerned are capable of experiencing pain or suffering.

(5) Before making regulations under subsection (3), the Department must consult such persons appearing to the Department to represent relevant interests as the Department considers appropriate.

(6) In this section, "vertebrate" means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and "invertebrate" means any animal not of that Sub-phylum.

Protected animals

2 An animal is a "protected animal" for the purposes of this Act if—

(a) it is of a kind which is commonly domesticated in Northern Ireland,

(b) it is under the control of man whether on a permanent or temporary basis, or

(c) it is not living in a wild state.

Responsibility for animals

3.—(1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.

(2) In this Act, references to being responsible for an animal include being in charge of it.

(3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.

(4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years, of whom the first mentioned person has actual care and control, is responsible.

(5) For the purposes of this Act, a person does not relinquish responsibility for an animal by reason only of abandoning it.

PART 2

PROTECTION OF ANIMALS

Prevention of harm

Unnecessary suffering

4.—(1) A person commits an offence if—

(a) an act of that person, or a failure of that person to act, causes an animal to suffer,

(b) that person knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so, and

(c) the suffering is unnecessary.

(2) A person commits an offence if—

(a) that person is responsible for an animal,

(b) an act, or failure to act, of another person causes the animal to suffer,

(c) the first-mentioned person permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and

(d) the suffering is unnecessary.

(3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include—

(a) whether the suffering could reasonably have been avoided, terminated or reduced;

(b) whether the conduct which caused the suffering was in compliance with any relevant statutory provision or any relevant provisions of a licence or code of practice issued under a statutory provision;

(c) whether the conduct which caused the suffering was for a legitimate purpose, such as—

(i) the purpose of benefiting the animal; or

(ii) the purpose of protecting a person, property or another animal;

(d) whether the suffering was proportionate to the purpose of the conduct concerned;

(e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.

(4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

Prohibited procedures

5.—(1) A person commits an offence if—

(a) that person carries out a prohibited procedure on a protected animal;

(b) that person causes such a procedure to be carried out on such an animal.

(2) A person commits an offence if—

(a) that person is responsible for an animal,

(b) another person carries out a prohibited procedure on the animal, and

(c) the first-mentioned person permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.

(3) A person commits an offence if that person takes a protected animal, or causes a protected animal to be taken, from a place in Northern Ireland for the purpose of having a prohibited procedure carried out on the animal at a place outside Northern Ireland.

(4) In this section references to the carrying out of a prohibited procedure on an animal are to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal.

(5) This section does not apply—

(a) in relation to—

(i) any procedure carried out by a veterinary surgeon;

(ii) any procedure carried out for the diagnosis of disease;

(iii) any procedure carried out for the purposes of medical treatment of an animal;

(iv) any other procedure which is specified in regulations made by the Department;

(b) to the removal of the whole or any part of a dog's tail (which is dealt with in section 6).

(6) Before making regulations under subsection (5), the Department must consult such persons appearing to the Department to represent relevant interests as the Department considers appropriate.

Modifications etc. (not altering text)

C1 S. 5(1)(2) excluded (2.4.2012) by The Welfare of Animals (Permitted Procedures by Lay Persons) Regulations (Northern Ireland) 2012 (S.R. 2012/153), art. 1, reg. 3, **Schs. 1-11**

Commencement Information

I1 S. 5 partly in operation; s. 5 not in operation at Royal Assent see s. 59; s. 5(5)(a)(iv) and (6) in operation at 11.7.2011 by S.R. 2011/245, **art. 2**, Sch. 1

I2 S. 5 in operation at 2.4.2012 by S.R. 2012/154, art. 2(a), **Sch. 1**

Docking of dogs' tails

6.—(1) A person commits an offence if that person—

(a) removes the whole or any part of a dog's tail; or

(b) causes the whole or any part of a dog's tail to be removed by another person.

(2) A person commits an offence if—

(a) that person is responsible for a dog,

(b) another person removes the whole or any part of the dog's tail, and

(c) the first-mentioned person permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.

(3) A person does not commit an offence under subsection (1) or (2) if the whole or any part of a dog's tail is removed—

(a) by a veterinary surgeon for the purpose of medical treatment; or

(b) in order to prevent or remove an immediate danger to the life of the dog in circumstances where it is not reasonably practicable to have the tail, or, as the case may be, any part of the tail, removed by a veterinary surgeon.

(4) Subsections (1) and (2) do not apply if the dog is a certified working dog that is not more than 5 days old.

(5) For the purposes of subsection (4), a dog is a certified working dog if a veterinary surgeon has certified, in accordance with regulations made by the Department, that the first and second conditions mentioned below are met.

(6) The first condition referred to in subsection (5) is that there has been produced to the veterinary surgeon such evidence as the Department may by regulations require for the purpose of showing that the dog is likely to be used for work in connection with law enforcement, lawful pest control or the lawful shooting of animals.

(7) The second condition referred to in subsection (5) is that the dog is of a breed specified in Schedule 1 for the purposes of this subsection.

(8) The Department may by regulations add to, or remove, breeds of dog from the list in Schedule 1.

(9) It is a defence for a person accused of an offence under subsection (1) or (2) to show that that person reasonably believed that the dog was one in relation to which subsection (4) applies.

(10) A person commits an offence if that person—

(a) owns a subsection (4) dog, and

(b) fails to take reasonable steps to secure that, before the dog is 8 weeks old, it is identified as a subsection (4) dog in accordance with regulations made by the Department.

(11) A person commits an offence if that person takes a dog, or causes a dog to be taken, from a place in Northern Ireland for the purpose of having the whole or any part of its tail removed, otherwise than for the purpose of medical treatment administered by a veterinary surgeon.

(12) A person commits an offence if—

(a) that person shows a dog at an event for which that person pays a fee or to which members of the public are admitted on payment of a fee,

(b) the dog's tail has been wholly or partly removed (in Northern Ireland or elsewhere), and

(c) the removal took place after the coming into operation of this section.

(13) Where a dog is shown only for the purpose of demonstrating its working ability, subsection (12) does not apply if the dog is a subsection (4) dog.

(14) It is a defence for a person accused of an offence under subsection (12) to show that that person reasonably believed—

(a) that the event was not one for which that person paid a fee or to which members of the public were admitted on payment of a fee;

(b) that the removal took place before the coming into operation of this section; or

(c) that the dog was one in relation to which subsection (13) applies.

(15) A person commits an offence if that person knowingly gives false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of this section.

(16) The Department may by regulations make provision about the functions of inspectors in relation to—

(a) certificates for the purposes of this section, and

(b) the identification of dogs as subsection (4) dogs.

(17) Before making regulations under this section, the Department must consult such persons appearing to the Department to represent any interests concerned as the Department considers appropriate.

(18) In this section "subsection (4) dog" means a dog whose tail has, after the coming into operation of this section, been wholly or partly removed without contravening subsection (1), because of the application of subsection (4).

Commencement Information

I3 S. 6 partly in operation; s. 6 not in operation at Royal Assent see s. 59; s. 6(16) and (17) in operation at 11.7.2011 by S.R. 2011/245, **art. 2**, Sch. 1

I4 S. 6(1)-(15) (18) in operation at 1.1.2013 by S.R. 2012/386, **art. 2(a)**

Administration of poisons, etc.

7.—(1) A person commits an offence if, without lawful authority or reasonable excuse, that person—

(a) administers any poisonous or injurious drug or substance to a protected animal, knowing it to be poisonous or injurious; or

(b) causes any poisonous or injurious drug or substance to be taken by a protected animal, knowing it to be poisonous or injurious.

(2) A person commits an offence if—

(a) that person is responsible for an animal,

(b) without lawful authority or reasonable excuse, another person administers a poisonous or injurious drug or substance to the animal or causes the animal to take such a drug or substance, and

(c) the first-mentioned person permitted that to happen or, knowing the drug or substance to be poisonous or injurious, failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.

(3) In this section, references to a poisonous or injurious drug or substance include a drug or substance which, by virtue of the quantity or manner in which it is administered or taken, has the effect of a poisonous or injurious drug or substance.

Fighting etc.

8.—(1) A person commits an offence if that person—

(a) causes an animal fight to take place, or attempts to do so;

(b) knowingly receives money for admission to an animal fight;

(c) knowingly publicises a proposed animal fight;

(d) provides information about an animal fight to another with the intention of enabling or encouraging attendance at the fight;

(e) makes or accepts a bet on the outcome of an animal fight or on the likelihood of anything occurring or not occurring in the course of an animal fight;

(f) takes part in an animal fight;

(g) owns or has in his or her possession anything designed or adapted for use in connection with an animal fight with the intention of its being so used;

(h) keeps or trains an animal for use in connection with an animal fight;

(i) keeps, uses or manages, or permits or assists in the keeping or use or management of, any premises for use for an animal fight.

(2) A person commits an offence if, without lawful authority or reasonable excuse, that person is present at an animal fight.

(3) A person commits an offence if, without lawful authority or reasonable excuse, that person—

(a) knowingly supplies a photograph, image or video recording of an animal fight;

(b) knowingly publishes a photograph, image or video recording of an animal fight;

(c) knowingly shows a photograph, image or video recording of an animal fight to another; or

(d) possesses a photograph, image or video recording of an animal fight, knowing it to be such a recording, with the intention of supplying it.

(4) Subsection (3) does not apply—

(a) in the case of paragraph (a), to the supply of a video recording for inclusion in a programme service;

(b) in the case of paragraph (b) or (c), to the publication or showing of a video recording by means of its inclusion in a programme service;

(c) in the case of paragraph (d), by virtue of intention to supply for inclusion in a programme service.

(5) In this section—

"animal fight" means an occasion on which a protected animal is placed with an animal, or with a human, for the purpose of fighting, wrestling or baiting;

"programme service" has the same meaning as in the Communications Act 2003 (c. 21);

"video recording" means a recording, in any form, from which a moving image may by any means be reproduced and includes data stored on a computer disc or by other electronic means which is capable of conversion into a moving image.

(6) In this section—

(a) references to supplying or publishing a video recording are to supplying or publishing a video recording in any manner, including, in relation to a video recording in the form of data stored electronically, by means of transmitting such data;

(b) references to showing a video recording are to showing a moving image reproduced from a video recording by any means.

Promotion of welfare

Ensuring welfare of animals

9.—(1) A person commits an offence if that person does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which that person is responsible are met to the extent required by good practice.

(2) For the purposes of this Act, an animal's needs shall be taken to include—

(a) its need for a suitable environment,

(b) its need for a suitable diet,

(c) its need to be able to exhibit normal behaviour patterns,

(d) any need it has to be housed with, or apart from, other animals, and

(e) its need to be protected from pain, suffering, injury and disease.

(3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular—

(a) any lawful purpose for which the animal is kept, and

(b) any lawful activity undertaken in relation to the animal.

(4) This section does not apply to the destruction of an animal in an appropriate and humane manner.

Improvement notices

10.—(1) If an inspector is of the opinion that a person is failing to comply with section 9(1), the inspector may serve on that person a notice which—

(a) states that the inspector is of that opinion;

(b) specifies the respects in which the inspector considers the person is failing to comply with that provision;

(c) specifies the steps the inspector considers need to be taken in order to comply with the provision;

(d) specifies a period for the taking of those steps; and

(e) explains the effect of subsections (2) to (6).

(2) Where a notice under subsection (1) ("an improvement notice") is served, no proceedings for an offence under section 9(1) may be instituted before the end of the period specified for the purposes of subsection (1)(d) ("the compliance period") in respect of—

(a) the non-compliance which gave rise to the notice, or

(b) any continuation of that non-compliance.

(3) If the steps specified in an improvement notice are taken at any time before the end of the compliance period, no proceedings for an offence under section 9(1) may be instituted in respect of—

(a) the non-compliance which gave rise to the notice; or

(b) any continuation of that non-compliance prior to the taking of the steps specified in the notice.

(4) Where an improvement notice is served, no proceedings for an offence under subsection (6) may be instituted before the end of the compliance period.

(5) An inspector may extend, or further extend, the compliance period specified in an improvement notice.

(6) A person on whom an improvement notice has been served commits an offence if, without reasonable excuse, that person fails in a material regard to comply with the notice.

Commencement Information

I5 S. 10 in operation at 2.4.2012 by S.R. 2012/154, art. 2(a), **Sch. 1**

Regulations for securing welfare of animals

11.—(1) The Department may by regulations make such provision as it thinks fit for the purposes of, and in connection with, securing the welfare of—

(a) animals for which a person is responsible; or

(b) the progeny of such animals.

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may, in particular—

(a) make provision imposing specific requirements for the purpose of securing that the needs of animals are met;

(b) make provision to facilitate or improve co-ordination in relation to the carrying out by different persons of functions relating to the welfare of animals.

(3) Power to make regulations under subsection (1) includes power—

(a) to provide that breach of a provision of the regulations is an offence;

(b) to apply a relevant post-conviction power in relation to conviction for an offence under the regulations;

(c) to make provision for fees or other charges in relation to the carrying out of functions under the regulations.

(4) Regulations under subsection (1) may provide that an offence specified in the regulations is to be treated as a relevant offence for the purposes of section 22.

(5) Before making regulations under subsection (1), the Department must consult such persons appearing to it to represent any relevant interests as it considers appropriate.

Licensing or registration of activities involving animals

12.—(1) A person must not carry on an activity to which this subsection applies except under the authority of a licence for the purposes of this section.

(2) Subsection (1) applies to an activity which—

(a) involves animals for which a person is responsible, and

(b) is specified for the purposes of the subsection by regulations made by the Department.

(3) A person must not carry on an activity to which this subsection applies unless registered for the purposes of this section.

(4) Subsection (3) applies to an activity which—

(a) involves animals for which a person is responsible, and

(b) is specified for the purposes of the subsection by regulations made by the Department.

(5) Regulations under subsection (2) or (4) may only be made for the purpose of securing the welfare of animals for which a person is responsible, or the progeny of such animals.

(6) A person commits an offence if that person contravenes subsection (1) or (3).

(7) The Department may by regulations make provision about licences or registration for the purposes of this section.

(8) Regulations under subsection (7) may repeal Articles 12 and 13 of the Dogs (Northern Ireland) Order 1983 (NI 8) (which impose registration requirements in relation to dog breeding establishments).

(9) Before making regulations under this section, the Department must consult such persons appearing to it to represent any relevant interests as the Department considers appropriate.

(10) Schedule 2 (which makes provision about regulations under this section) has effect.

Prohibition on keeping certain animals

13.—(1) The Department may by regulations prohibit the keeping at—

(a) domestic premises; or

(b) other premises,

of any animals of a kind specified in the regulations.

(2) For the purposes of subsection (1)(b)—

(a) "other premises"—

(i) does not include the premises of a zoo licensed or regulated by the Department of the Environment under any statutory provision;

(ii) otherwise, means premises of such type as are described in the regulations;

(b) "animal" does not include a dangerous wild animal within the meaning of the Dangerous Wild Animals (Northern Ireland) Order 2004 (NI 16).

(3) Regulations under subsection (1) must be made for the purposes of securing the welfare of animals.

(4) Power to make regulations under subsection (1) includes power—

(a) to provide that a breach of a provision of the regulations is an offence;

(b) to apply a relevant post-conviction power in relation to conviction for an offence under the regulations.

(5) Regulations under subsection (1) may provide that an offence specified in the regulations is to be treated as a relevant offence for the purposes of section 22.

(6) In determining whether to make regulations under subsection (1) in relation to a type of premises, the Department must have regard to whether (and the extent to which) adequate provision for the welfare of animals of the kind in question—

(a) is capable of being made, and

(b) is likely to be made,

at that type of premises.

(7) Before making regulations under subsection (1), the Department must consult—

(a) such persons appearing to it to represent relevant interests, and

(b) such other persons,

as the Department considers appropriate.

(8) In this section, "zoo" means a permanent establishment where animals of wild species are kept primarily for exhibition to the public.

Abandonment

14.—(1) A person commits an offence if, without reasonable excuse, that person abandons an animal for which that person is responsible.

(2) A person commits an offence if, without reasonable excuse, that person—

(a) leaves unattended an animal for which that person is responsible, and

(b) fails to make adequate provision for its welfare.

(3) The considerations to which regard is to be had in determining, for the purposes of subsection (2), whether such provision has been made include—

(a) the kind of animal concerned and its age and state of health;

(b) the length of time for which it is, or has been, left;

(c) what it reasonably requires by way of—

(i) food and water;

(ii) shelter and warmth;

(iii) adequate light and ventilation.

Transfer of animals by way of sale or prize to persons under 16

15.—(1) A person commits an offence if that person sells an animal to a person whom that person has reasonable cause to believe to be under the age of 16 years.

(2) For the purposes of subsection (1), selling an animal includes transferring, or agreeing to transfer, ownership of the animal in consideration of entry by the transferee into another transaction.

(3) Subject to subsections (4) to (6), a person commits an offence if—

(a) that person enters into an arrangement with a person whom that person has reasonable cause to believe to be under the age of 16 years, and

(b) the arrangement is one under which that person has the chance to win an animal as a prize.

(4) A person does not commit an offence under subsection (3) if—

(a) that person enters into the arrangement in the presence of the person with whom the arrangement is made, and

(b) that person has reasonable cause to believe that the person with whom the arrangement is made is accompanied by a person who—

(i) is not under the age of 16 years; and

(ii) has care and control of the person who is under the age of 16 years.

(5) A person does not commit an offence under subsection (3) if—

(a) that person enters into the arrangement otherwise than in the presence of the person with whom the arrangement is made, and

(b) the first-mentioned person has reasonable cause to believe that a person who has actual care and control of the person with whom the arrangement is made has consented to the arrangement.

(6) A person does not commit an offence under subsection (3) if that person enters into the arrangement in a family context.

Codes of practice

16.—(1) The Department may issue, and may from time to time revise, codes of practice for the purpose of providing practical guidance in respect of any provision made by or under this Act.

(2) Where the Department proposes to issue (or revise) a code of practice under subsection (1), it shall—

(a) prepare a draft of the code (or revised code),

(b) consult such persons about the draft as appear to the Department to represent any interests concerned as it considers appropriate, and

(c) consider any representations made by them.

(3) The Department must publish the code, and any revision of it, in such manner as it considers appropriate.

(4) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render that person liable to proceedings of any kind.

(5) In any proceedings against a person for an offence under this Act or an offence under regulations under section 11, 12 or 13—

(a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability, and

(b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

PART 3

ANIMALS IN DISTRESS

Powers in relation to animals in distress

17.—(1) If an inspector or a constable reasonably believes that a protected animal is suffering, the inspector or constable may take, or arrange for the taking of, such steps as appear to the inspector or constable to be immediately necessary to alleviate the animal's suffering.

(2) Subsection (1) does not authorise destruction of an animal.

(3) If a veterinary surgeon certifies that the condition of a protected animal is such that it should in its own interests be destroyed, an inspector or a constable may—

(a) destroy the animal where it is or take it to another place and destroy it there; or

(b) arrange for the doing of any of the things mentioned in paragraph (a).

(4) An inspector or a constable may act under subsection (3) without the certificate of a veterinary surgeon if it appears to the inspector or constable—

(a) that the condition of the animal is such that there is no reasonable alternative to destroying it, and

(b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.

(5) An inspector or a constable may take a protected animal into possession if a veterinary surgeon certifies—

(a) that it is suffering, or

(b) that it is likely to suffer if its circumstances do not change.

(6) An inspector or a constable may act under subsection (5) without the certificate of a veterinary surgeon if it appears to the inspector or constable—

(a) that the animal is suffering or that it is likely to do so if its circumstances do not change, and

(b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.

(7) The power conferred by subsection (5) includes power to take into possession dependent offspring of an animal taken into possession under that subsection.

(8) Where an animal is taken into possession under subsection (5), an inspector or a constable may—

(a) remove it, or arrange for it to be removed, to a place of safety;

(b) care for it, or arrange for it to be cared for—

(i) on the premises where it was being kept when it was taken into possession, or

(ii) at such other place as the inspector or, as the case may be, the constable thinks fit;

(c) mark it, or arrange for it to be marked, for identification purposes.

(9) A person acting under subsection (8)(b)(i), or under an arrangement under that provision, may make use of any equipment on the premises.

(10) A veterinary surgeon may examine and take samples from an animal for the purpose of determining whether to issue a certificate under subsection (3) or (5) with respect to the animal.

(11) If a person exercises a power under this section otherwise than with the knowledge of a person who is responsible for the animal concerned, that person must, as soon as reasonably practicable after exercising the power, take such steps as are reasonable in the circumstances to bring the exercise of the power to the notice of such a person.

(12) A person commits an offence if that person intentionally obstructs a person in the exercise of power conferred by this section.

(13) A magistrates' court may, on application by a person who incurs expenses in acting under this section, order that that person be reimbursed by such person as it thinks fit.

(14) For the purposes of Articles 143 (appeals) and 146 (cases stated) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)—

(a) an order made under subsection (13) shall be deemed to be an order in proceedings to which Article 143 applies; and

(b) the person affected by the order shall be deemed to be a party to those proceedings.

Power of entry for section 17 purposes

18.—(1) An inspector or a constable may enter premises for the purpose of searching for a protected animal and of exercising any power under section 17 in relation to it if the inspector or constable reasonably believes—

(a) that there is a protected animal on the premises, and

(b) that the animal is suffering or, if the circumstances of the animal do not change, it is likely to suffer.

(2) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling.

(3) An inspector or a constable may (if necessary) use reasonable force in exercising the power conferred by subsection (1), but only if it appears to the inspector or constable that entry is required before a warrant under subsection (4) can be obtained and executed.

(4) Subject to subsection (5), a lay magistrate may, on the application of an inspector or constable, issue a warrant authorising an inspector or a constable to enter premises for the purpose mentioned in subsection (1), if necessary using reasonable force.

(5) The power to issue a warrant under subsection (4) is exercisable only if the lay magistrate is satisfied by complaint on oath—

(a) that there are reasonable grounds for believing that there is a protected animal on the premises and that the animal is suffering or is likely to suffer if its circumstances do not change, and

(b) that section 46 is satisfied in relation to the premises.

Orders in relation to animals taken under section 17(5)

19.—(1) A magistrates' court may order any of the following in relation to an animal taken into possession under section 17(5)—

(a) that specified treatment be administered to the animal;

(b) that possession of the animal be given up to a specified person;

(c) that the animal be sold;

(d) that the animal be disposed of otherwise than by way of sale;

(e) that the animal be destroyed.

(2) If an animal is taken into possession under section 17(5) when it is pregnant, the power conferred by subsection (1) shall also be exercisable in relation to any offspring that results from the pregnancy.

(3) The power conferred by subsection (1) shall be exercisable on application by—

(a) the owner of the animal, or

(b) any other person appearing to the court to have a sufficient interest in the animal.

(4) A court may not make an order under subsection (1) unless—

(a) it has given the owner of the animal an opportunity to be heard; or

(b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(5) Where a court makes an order under subsection (1), it may—

(a) appoint a person to carry out, or arrange for the carrying out, of the order;

(b) give directions with respect to the carrying out of the order;

(c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;

(d) order a person to reimburse the expenses of carrying out the order.

(6) In determining how to exercise its powers under this section, the court must have regard, amongst other things, to the desirability of protecting the animal's value and avoiding increasing any expenses which a person may incur or be ordered to reimburse.

(7) A person commits an offence if that person intentionally obstructs a person in the exercise of any power conferred by virtue of this section.

(8) If the owner of the animal is subject to a liability by virtue of section 17(13) or subsection (5)(d) of this section, any amount to which the owner is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

Orders under section 19: appeals

20.—(1) For the purposes of Articles 143 (appeals) and 146 (cases stated) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)—

(a) an order made under section 19(1) shall be deemed to be an order in proceedings in which Article 143 applies; and

(b) the owner of the animal to which the order relates shall be deemed to be a party to those proceedings.

(2) Nothing may be done under an order under section 19(1) unless—

(a) the period for giving notice of appeal against the order has expired, and

(b) if the order is the subject of an appeal, the appeal has been determined or withdrawn.

(3) Where the effect of an order is suspended under subsection (2)—

(a) no directions given in connection with the order shall have effect, but

(b) the court may give directions about how any animal to which the order applies is to be dealt with during the suspension.

(4) Directions under subsection (3)(b) may, in particular—

(a) appoint a person to carry out, or arrange for the carrying out, of the directions;

(b) require any person who has possession of the animal to deliver it up for the purposes of the directions;

(c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the directions;

(d) provide for the recovery of any expenses which are reasonably incurred in carrying out the directions.

(5) Where a court decides on an application under section 19(3)(a) not to exercise the power conferred by subsection (1) of that section, the applicant may appeal against the decision to the county court.

(6) For the purposes of Article 143 (appeals) and 146 (cases stated) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)—

(a) an order made under section 19(5)(d) shall be deemed to be an order in proceedings to which Article 143 applies; and

(b) the person against whom the order is made shall be deemed to be a party to those proceedings.

PART 4

ENFORCEMENT

Enforcement powers

Seizure of animals involved in fighting offences

21.—(1) A constable may seize an animal if it appears to the constable that it is one in relation to which an offence under section 8(1) or (2) has been committed.

(2) A constable may enter and search premises for the purpose of exercising the power under subsection (1) if the constable reasonably believes—

(a) that there is an animal on the premises, and

(b) that the animal is one in relation to which the power under subsection (1) is exercisable.

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.

(4) Subject to subsection (5), a lay magistrate may, on the application of a constable, issue a warrant authorising a constable to enter and search premises, if necessary using reasonable force, for the purpose of exercising the power under subsection (1).

(5) The power to issue a warrant under subsection (4) is exercisable only if the lay magistrate is satisfied by complaint on oath—

(a) that there are reasonable grounds for believing that there is on the premises an animal in relation to which an offence under section 8(1) or (2) has been committed, and

(b) that section 46 is satisfied in relation to the premises.

(6) In this section, references to an animal in relation to which an offence under section 8(1) or (2) has been committed include an animal which took part in an animal fight in relation to which such an offence was committed.

Entry and search under warrant in connection with offences

22.—(1) Subject to subsection (2), a lay magistrate may, on the application of an inspector or constable, issue a warrant authorising an inspector or a constable to enter premises, if necessary using reasonable force, in order to search for evidence of the commission of a relevant offence.

(2) The power to issue a warrant under subsection (1) is exercisable only if the lay magistrate is satisfied by complaint on oath—

(a) that there are reasonable grounds for believing—

(i) that a relevant offence has been committed on the premises, or

(ii) that evidence of the commission of a relevant offence is to be found on the premises, and

(b) that section 46 is satisfied in relation to the premises.

(3) In this section, "relevant offence" means an offence under any of sections 4 to 10, 12(6), 14 and 33(9).

Inspection of records required to be kept by holder of licence

23.—(1) An inspector may require the holder of a licence to produce for inspection any records which the holder is required to keep by a condition of the licence.

(2) Where records which a person is so required to keep are stored in electronic form, the power under subsection (1) includes power to require the records to be made available for inspection—

(a) in a visible and legible form; or

(b) in a form from which they can readily be produced in a visible and legible form.

(3) An inspector may inspect and take copies of any records produced for inspection in pursuance of a requirement under this section.

Inspection in connection with licences

24.—(1) An inspector may carry out an inspection in order to check compliance with—

(a) the conditions subject to which a licence is granted;

(b) provision made by or under this Act which is relevant to the carrying on of an activity to which a licence relates.

(2) An inspector may, for the purpose of carrying out an inspection under subsection (1), enter—

(a) premises specified in a licence as premises on which the carrying on of an activity is authorised;

(b) premises on which the inspector reasonably believes an activity to which a licence relates is being carried on.

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier.

Inspection in connection with registration

25.—(1) An inspector may carry out an inspection in order to check compliance with any provision made by or under this Act which is relevant to the carrying on of an activity to which a registration for the purposes of section 12 relates.

(2) An inspector may, for the purpose of carrying out an inspection under subsection (1), enter premises on which the inspector reasonably believes a person registered for the purposes of section 12 is carrying on an activity to which the registration relates.

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier.

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

26.—(1) An inspector may carry out an inspection in order to—

(a) check compliance with regulations under section 13;

(b) ascertain whether any offence under regulations made under that section has been or is being committed.

(2) An inspector may enter premises which the inspector reasonably believes to be premises on which animals of a kind specified in regulations made under section 13 are kept in order to carry out an inspection under subsection (1).

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.

(4) Subject to subsection (5), a lay magistrate may, on the application of an inspector, issue a warrant authorising an inspector to enter premises, if necessary using reasonable force, in order to carry out an inspection under subsection (1).

(5) The power to issue a warrant under subsection (4) is exercisable only if the lay magistrate is satisfied by complaint on oath—

(a) that it is reasonable to carry out an inspection on the premises, and

(b) that section 46 is satisfied in relation to the premises.

Inspection of farm premises

27.—(1) An inspector may carry out an inspection in order to—

(a) check compliance with regulations under section 11 which relate to animals bred or kept for farming purposes;

(b) ascertain whether any offence under or by virtue of this Act has been or is being committed in relation to such animals.

(2) An inspector may enter premises which the inspector reasonably believes to be premises on which animals are bred or kept for farming purposes in order to carry out an inspection under subsection (1).

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.

(4) Subject to subsection (5), a lay magistrate may, on the application of an inspector, issue a warrant authorising an inspector to enter premises, if necessary using reasonable force, in order to carry out an inspection under subsection (1).

(5) The power to issue a warrant under subsection (4) is exercisable only if the lay magistrate is satisfied by complaint on oath—

(a) that it is reasonable to carry out an inspection on the premises, and

(b) that section 46 is satisfied in relation to the premises.

Commencement Information

I6 S. 27 in operation at 2.4.2012 by S.R. 2012/154, art. 2(a), **Sch. 1**

Inspection relating to Community obligations

28.—(1) An inspector may carry out an inspection in order to check compliance with regulations under section 11 which implement a Community obligation.

(2) An inspector may enter any premises in order to carry out an inspection under subsection (1).

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.

Prosecutions

Power of councils to prosecute offences

29 A council may prosecute proceedings for any offence under this Act.

Commencement Information

I7 S. 29 in operation at 2.4.2012 by S.R. 2012/154, art. 2(a), **Sch. 1**

Time limits for prosecutions

30 Summary proceedings for an offence under or by virtue of this Act other than such an offence which is also triable on indictment under section 31(2) may be commenced at any time—

(a) within the period of three years from the commission of the offence; or

(b) within the period of 12 months from the date on which evidence which the prosecutor thinks is sufficient to justify a prosecution comes to the knowledge of the prosecutor.

Post-conviction powers

Penalties

31.—(1) A person guilty of an offence under any of sections 6(10) and (12), 8(3), 9, 10(6), 12(6), 14, 15, 17(12), 19(7), 33(9), 40(7) and 50(3) or paragraph 17 of Schedule 3 or any regulations made under section 11, 12(7) or 13, where breach of those regulations is an offence, shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both.

(2) A person guilty of an offence under any of sections 4, 5, 6(1), (2), (11) and (15), 7 and 8(1) and (2) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or both.

Deprivation

32.—(1) If the person convicted of an offence under any of sections 4, 5, 6(1), (2), (11) and (15), 7, 8(1) and (2), 9, 10(6), 12(6) and 14 is the owner of an animal in relation to which the offence was committed, the court by or before which that person is convicted may, instead of or in addition to dealing with that person in any other way, make an order depriving that person of ownership of the animal and for its disposal.

(2) Where the owner of an animal is convicted of an offence under section 33(9) because ownership of the animal is in breach of a disqualification under section 33(2), the court by or before which that person is convicted may, instead of or in addition to dealing with that person in any other way, make an order depriving that person of ownership of the animal and for its disposal.

(3) Where the animal in respect of which an order under subsection (1) or (2) is made has any dependent offspring, the order may include provision depriving the person to whom it relates of ownership of the offspring and for its disposal.

(4) Where a court makes an order under subsection (1) or (2), it may—

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order;

(d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the offender to reimburse the expenses of carrying out the order.

(5) Directions under subsection (4)(c) may—

(a) specify the manner in which an animal is to be disposed of; or

(b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (4)(a).

(6) Where a court decides not to make an order under subsection (1) or (2) in relation to an offender, it must state its reasons for the decision.

(7) Subsection (6) does not apply where the court makes an order under section 33(1) in relation to the offender.

(8) In subsection (1), the reference to an animal in relation to which an offence was committed includes, in the case of an offence under section 8, an

animal which took part in an animal fight in relation to which the offence was committed.

(9) In this section, references to disposing of an animal include destroying it.

Disqualification

33.—(1) If a person is convicted of an offence to which this section applies, the court by or before which that person is convicted may, instead of or in addition to dealing with that person in any other way, make an order disqualifying that person under any one or more of subsections (2) to (4) for such period as it thinks fit.

(2) Disqualification under this subsection disqualifies a person—

(a) from owning animals,

(b) from keeping animals,

(c) from participating in the keeping of animals, and

(d) from being party to an arrangement under which that person is entitled to control or influence the way in which animals are kept.

(3) Disqualification under this subsection disqualifies a person from dealing in animals.

(4) Disqualification under this subsection disqualifies a person—

(a) from transporting animals, and

(b) from arranging for the transport of animals.

(5) Disqualification under subsection (2), (3) or (4) may be imposed in relation to animals generally, or in relation to animals of one or more kinds.

(6) The court by which an order under subsection (1) is made may specify a period during which the offender may not make an application under section 42(1) for termination of the order.

(7) The court by which an order under subsection (1) is made may—

(a) suspend the operation of the order pending an appeal; or

(b) where it appears to the court that the offender owns or keeps an animal to which the order applies, suspend the operation of the order, and of any order made under section 34 in connection with the disqualification, for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the animal.

(8) Where a court decides not to make an order under subsection (1) in relation to an offender, it must state its reasons for the decision.

(9) A person who breaches a disqualification imposed by an order under subsection (1) commits an offence.

(10) This section applies to an offence under any of sections 4, 5, 6(1), (2), (11) and (15), 7, 8(1) and (2), 9, 10(6), 12(6) and 14 and subsection (9) of this section.

Seizure of animals in connection with disqualification

34.—(1) Where—

(a) a court makes an order under section 33(1), and

(b) it appears to the court that the person to whom the order applies owns or keeps any animal contrary to the disqualification imposed by the order,

it may order that all animals that person owns or keeps contrary to the disqualification be taken into possession.

(2) Where a person is convicted of an offence under section 33(9) because of owning or keeping an animal in breach of disqualification under section 33(2), the court by or before which that person is convicted may order that all animals that that person owns or keeps in breach of the disqualification be taken into possession.

(3) An order under subsection (1) or (2), so far as relating to any animal owned by the person subject to disqualification, shall have effect as an order for the disposal of the animal.

(4) Any animal taken into possession in pursuance of an order under subsection (1) or (2) that is not owned by the person subject to disqualification shall be dealt with in such manner as the court may order.

(5) A court may not make an order for disposal under subsection (4) unless—

(a) it has given the owner of the animal an opportunity to be heard, or

(b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(6) Where a court makes an order under subsection (4) for the disposal of an animal, the owner may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the county court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(7) In this section, references to disposing of an animal include destroying it.

Section 34: supplementary

35.—(1) The court by which an order under section 34 is made may—

(a) appoint a person to carry out, or arrange for the carrying out of the order;

(b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order;

(d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the person subject to disqualification, or another person, to reimburse the expenses of carrying out the order.

(2) Directions under subsection (1)(c) may—

(a) specify the manner in which an animal is to be disposed of; or

(b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (1)(a).

(3) In determining how to exercise its powers under section 34 and this section, the court must have regard, amongst other things, to—

(a) the desirability of protecting the value of any animal to which the order applies, and

(b) the desirability of avoiding increasing any expenses which a person may be ordered to reimburse.

(4) In determining how to exercise a power delegated under subsection (2)(b), a person must have regard, amongst other things, to the things mentioned in subsection (3)(a) and (b).

(5) If the owner of an animal ordered to be disposed of under section 34 is subject to a liability by virtue of subsection (1)(e), any amount to which the owner is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

Destruction in the interests of an animal

36.—(1) The court by or before which a person is convicted of an offence under any of sections 4, 5, 6(1), (2), (11) and (15), 7, 8(1) and (2), 9, 10(6) and 14 may order the destruction of an animal in relation to which the offence was committed if it is satisfied, on the basis of evidence given by a veterinary surgeon, that it is appropriate to do so in the interests of the animal.

(2) A court may not make an order under subsection (1) unless—

(a) it has given the owner of the animal an opportunity to be heard; or

(b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(3) Where a court makes an order under subsection (1), it may—

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);

(d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the offender or another person to reimburse the expenses of carrying out the order.

(4) Where a court makes an order under subsection (1), each of the offender and, if different, the owner of the animal may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the county court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(5) Subsection (4) does not apply if the court by which the order is made directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

(6) In subsection (1), the reference to an animal in relation to which an offence was committed includes, in the case of an offence under section 8(1) or (2), an animal which took part in an animal fight in relation to which the offence was committed.

Destruction of animals involved in fighting offences

37.—(1) The court by or before which a person is convicted of an offence under section 8(1) or (2) may order the destruction of an animal in relation to which the offence was committed on grounds other than the interests of the animal.

(2) A court may not make an order under subsection (1) unless—

(a) it has given the owner of the animal an opportunity to be heard; or

(b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(3) Where a court makes an order under subsection (1), it may—

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);

(d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the offender or another person to reimburse the expenses of carrying out the order.

(4) Where a court makes an order under subsection (1) in relation to an animal which is owned by a person other than the offender, that person may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the county court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(5) In subsection (1), the reference to an animal in relation to which the offence was committed includes an animal which took part in an animal fight in relation to which the offence was committed.

Reimbursement of expenses relating to animals involved in fighting offences

38.—(1) The court by or before which a person is convicted of an offence under section 8(1) or (2) may order the offender or another person to reimburse any expenses incurred by the police in connection with the keeping of an animal in relation to which the offence was committed.

(2) In subsection (1), the reference to an animal in relation to which the offence was committed includes an animal which took part in a fight in relation to which the offence was committed.

Forfeiture of equipment used in offences

39.—(1) Where a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7 and 8, the court by or before which that person is convicted may order any qualifying item which is shown to the satisfaction of the court to relate to the offence to be—

(a) forfeited, and

(b) destroyed or dealt with in such manner as may be specified in the order.

(2) The reference in subsection (1) to any qualifying item is—

(a) in the case of a conviction for an offence under section 4, to anything designed or adapted for causing suffering to an animal;

(b) in the case of a conviction for an offence under section 5, to anything designed or adapted for carrying out a prohibited procedure on an animal;

(c) in the case of a conviction for an offence under section 6(1) or (2), to anything designed or adapted for removing the whole or any part of a dog's tail;

(d) in the case of a conviction for an offence under section 7, to anything designed or adapted for administering any drug or substance to an animal;

(e) in the case of a conviction for an offence under section 8(1) or (2), to anything designed or adapted for use in connection with an animal fight;

(f) in the case of a conviction for an offence under section 8(3), to a photograph, image or video recording of an animal fight, including anything on or in which the photograph, image or recording is kept.

(3) The court shall not order anything to be forfeited under subsection (1) if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless the person has been given an opportunity to show cause why the order should not be made.

(4) An expression used in any of paragraphs (a) to (f) of subsection (2) has the same meaning as in the provision referred to in that paragraph.

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

40.—(1) Nothing may be done under an order under section 32, 34, 36 or 37 with respect to an animal or an order under section 39 unless—

(a) the period for giving notice of appeal against the order has expired,

(b) the period for giving notice of appeal against the conviction on which the order was made has expired, and

(c) if the order or conviction is the subject of an appeal, the appeal has been determined or withdrawn.

(2) Subsection (1) does not apply to an order under section 36(1) if the order is the subject of a direction under subsection (5) of that section.

(3) Where the effect of an order is suspended under subsection (1)—

(a) no requirement imposed or directions given in connection with the order shall have effect, but

(b) the court may give directions about how any animal to which the order applies is to be dealt with during the suspension.

(4) Directions under subsection (3)(b) may, in particular—

(a) authorise the animal to be taken into possession;

(b) authorise the removal of the animal to a place of safety;

(c) authorise the animal to be cared for either on the premises where it was being kept when it was taken into possession or at some other place;

(d) appoint a person to carry out, or arrange for the carrying out, of the directions;

(e) require any person who has possession of the animal to deliver it up for the purposes of the directions;

(f) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the directions;

(g) provide for the recovery of any expenses in relation to removal or care of the animal which are incurred in carrying out the directions.

(5) Any expenses a person is directed to pay under subsection (4)(g) shall be recoverable summarily as a civil debt.

(6) Where the effect of an order under section 32 is suspended under subsection (1) the person to whom the order relates may not sell or part with any animal to which the order applies.

(7) Failure to comply with subsection (6) is an offence.

Orders with respect to licences

41.—(1) If a person is convicted of an offence under any of sections 4, 5, 6(1), (2), (11) and (15), 7 to 9, 10(6), 12(6), 14 and 15, the court by or before which that person is convicted may, instead of or in addition to dealing with that person in any other way—

(a) make an order cancelling any licence held by that person; and

(b) make an order disqualifying that person, for such period as it thinks fit, from holding a licence.

(2) Disqualification under subsection (1)(b) may be imposed in relation to licences generally or in relation to licences of one or more kinds.

(3) The court by which an order under subsection (1)(b) is made may specify a period during which the offender may not make an application under section 42(1) for termination of the order.

(4) The court by which an order under subsection (1) is made may suspend the operation of the order pending an appeal.

Termination of disqualification under section 33 or 41

42.—(1) A person who is disqualified by virtue of an order under section 33 or 41 may apply to the court which made the order for the termination of the order.

(2) No application under subsection (1) may be made—

(a) before the end of the period of one year beginning with the date on which the order is made,

(b) where a previous application under that subsection has been made in relation to the same order, before the end of the period of one year beginning with the date on which the previous application was determined, or

(c) before the end of any period specified under section 33(6), 41(3) or subsection (5) of this section in relation to the order.

(3) On an application under subsection (1), the court may—

(a) terminate the disqualification,

(b) vary the disqualification so as to make it less onerous, or

(c) refuse the application.

(4) When determining an application under subsection (1), the court must have regard to the character of the applicant, the conduct of the applicant since the imposition of the disqualification and any other circumstances of the case.

(5) Where the court refuses an application under subsection (1), it may specify a period during which the applicant may not make a further application under that subsection in relation to the order concerned.

(6) The court may order an applicant under subsection (1) to pay all or part of the costs of the application.

Orders made on conviction for reimbursement of expenses

43 Where an order is made under section 32(4)(e), 35(1)(e), 36(3)(e), 37(3)(e) or 38(1), the expenses that are required by the order to be reimbursed shall not be regarded for the purposes of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) as a sum adjudged to be paid by a summary conviction, but shall be recoverable summarily as a civil debt.

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

44.—(1) Where a court makes an order to which this section applies, the person against whom the order is made may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the county court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(2) This section applies to—

(a) an order under section 35(1)(e) against a person other than the person subject to disqualification, and

(b) an order under section 36(3)(e), 37(3)(e) or 38(1) against a person other than the offender.

PART 5

GENERAL

Inspectors

45.—(1) In this Act, "inspector", in the context of any provision, means—

(a) in so far as that provision relates to farmed animals, a person appointed to be an inspector for the purposes of that provision by the Department;

(b) in so far as that provision relates to other animals, a person appointed to be an inspector for the purposes of that provision by a council.

(2) In subsection (1), "farmed animal" means any animal bred or kept for the production of food, wool or skin or for other farming purposes.

(3) The Department may by regulations amend the definition of "farmed animal" in subsection (2).

(4) Before making regulations under subsection (3), the Department must consult such persons appearing to the Department to represent relevant interests as the Department considers appropriate.

(5) In appointing a person to be an inspector for the purposes of this Act, a council must have regard to guidance issued by the Department.

(6) The Department may, in connection with guidance under subsection (5), draw up a list of persons whom the Department considers suitable for appointment by a council to be an inspector for the purposes of this Act.

(7) A person may be included in a list under subsection (6) as suitable for appointment as an inspector for all the purposes of this Act or only for such one or more of those purposes as may be specified in the list.

(8) Each council must furnish to the Department, at such times and in such manner as the Department may direct—

(a) such information relating to the exercise of the council's functions under this section; and

(b) such information relating to the exercise of functions by inspectors appointed by the council for the purposes of this Act,

as the Department may require.

(9) An inspector shall not be liable in any civil or criminal proceedings for anything done in the purported performance of the inspector's functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(10) Relief from liability of an inspector under subsection (9) shall not affect any liability of any other person in respect of the inspector's act.

Commencement Information

I8 S. 45 in operation at 2.4.2012 by S.R. 2012/154, art. 2(a), **Sch. 1**

Conditions for grant of warrant

46.—(1) This section is satisfied in relation to premises if any of the following four conditions is met.

(2) The first condition is that the whole of the premises is used as a private dwelling and the occupier has been informed of the decision to apply for a warrant.

(3) The second condition is that any part of the premises is not used as a private dwelling and that each of the following applies to the occupier of the premises—

(a) the occupier has been informed of the decision to seek entry to the premises and of the reasons for that decision;

(b) the occupier has failed to allow entry to the premises on being requested to do so by an inspector or a constable;

(c) the occupier has been informed of the decision to apply for a warrant.

(4) The third condition is that—

(a) the premises are unoccupied or the occupier is absent, and

(b) notice of intention to apply for a warrant has been left in a conspicuous place on the premises.

(5) The fourth condition is that it is inappropriate to inform the occupier of the decision to apply for a warrant because—

(a) it would defeat the object of entering the premises, or

(b) entry is required as a matter of urgency.

Powers of entry, inspection and search: supplementary

47 Schedule 3 (which makes supplementary provision in relation to powers of entry, inspection and search) has effect.

Power to stop and detain vehicles

48.—(1) A constable in uniform or, if accompanied by such a constable, an inspector may stop and detain a vehicle for the purpose of entering and searching it in the exercise of a power conferred—

(a) by section 18(1), or

(b) by a warrant under section 18(4) or 22(1).

(2) A constable in uniform may stop and detain a vehicle for the purpose of entering and searching it in the exercise of a power conferred—

(a) by section 21(2), or

(b) by a warrant under section 21(4).

(3) If accompanied by a constable in uniform, an inspector may stop and detain a vehicle for the purpose of entering it and carrying out an inspection in the exercise of a power conferred—

(a) by section 24(2), 25(2), 26(2), 27(2) or 28(2), or

(b) by a warrant under section 26(4) or 27(4).

(4) A vehicle may be detained for as long as is reasonably required to permit a search or inspection to be carried out (including the exercise of any related power under this Act) either at the place where the vehicle was first detained or nearby.

Power to detain vessels, etc.

49.—(1) Where an inspector appointed by the Department certifies in writing that the inspector is satisfied that an offence under or by virtue of this Act is being or has been committed on board a vessel in port, the vessel may be detained.

(2) A certificate under subsection (1) must—

(a) specify each offence to which it relates, and

(b) set out the inspector's reasons for being satisfied that each offence to which it relates is being or has been committed.

(3) An inspector who detains a vessel in reliance on a certificate under subsection (1) must as soon as is reasonably practicable give a copy of it to the master or person in charge of the vessel.

(4) A vessel may be detained under subsection (1) until the Department otherwise directs.

(5) The Department may by regulations—

(a) apply this section to aircraft or hovercraft, with such modifications as the Department thinks fit, or

(b) make such other provision for the detention of aircraft or hovercraft in relation to offences under or by virtue of this Act as the Department thinks fit.

Obtaining of documents in connection with carrying out orders, etc.

50.—(1) Where—

(a) an order under section 19(1), 32(1) or (2), 34(1) or (2) or 36(1) has effect, and

(b) documents which are relevant to the carrying out of the order or any directions given in connection with it are in the possession of, or under the control of, the owner of an animal to which the order relates,

the owner must, if so required by a person authorised to carry out the order, deliver the documents to that person as soon as practicable and in any event before the end of the period of 10 days beginning with the date on which the owner is notified of the requirement.

(2) Where—

(a) directions under section 40(3)(b) have effect, and

(b) documents which are relevant to the carrying out of the directions are in the possession of, or under the control of, the owner of an animal to which the directions relate,

the owner must, if so required by a person authorised to carry out the directions, deliver the documents to that person as soon as practicable and in any event before the end of the period of 10 days beginning with the date on which the owner is notified of the requirement.

(3) A person who fails without reasonable excuse to comply with subsection (1) or (2) commits an offence.

Offences by bodies corporate

51 For the purposes of this Act, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words "the liability of whose members is limited" and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

Scientific research

52.—(1) Nothing in this Act applies to anything lawfully done under the Animals (Scientific Procedures) Act 1986 (c. 14).

(2) No power of entry, inspection or search conferred by or under this Act, except for any such power conferred by section 27, may be exercised in relation to a place **[**[F1]which is specified in a licence granted under section 2C of the Animals (Scientific Procedures) Act 1986 (licensing of undertakings involving the use of animals for scientific procedures).**]**

(3) Section 9 does not apply in relation to an animal which—

[[F2](a) is being kept at a place specified in a licence granted under section 2C of the Animals (Scientific Procedures) Act 1986, and

(b) is being so kept for the purposes of, or in connection with, an activity mentioned in section 2B(2) of that Act that is pursued at that place in the course of carrying on the undertaking authorised by the licence.**]**

[F3](4) . . . . . .

Textual Amendments

F1 Words in s. 52(2) substituted (1.1.2013) by The Animals (Scientific Procedures) Act 1986 Amendment Regulations 2012 (S.I. 2012/3039), regs. 1(2), **41(2)** (with Sch. 3)

F2 S. 52(3)(a)(b) substituted (1.1.2013) for s. 52(3)(a)-(d) by The Animals (Scientific Procedures) Act 1986 Amendment Regulations 2012 (S.I. 2012/3039), regs. 1(2), **41(3)** (with Sch. 3)

F3 S. 52(4) omitted (1.1.2013) by virtue of The Animals (Scientific Procedures) Act 1986 Amendment Regulations 2012 (S.I. 2012/3039), regs. 1(2), **41(4)** (with Sch. 3)

Hunting, coursing and fishing

53.—(1) Nothing in this Act applies in relation to anything which occurs in the normal course of hunting or coursing any animal, not being a protected animal, unless—

(a) the animal is released in an injured, mutilated or exhausted condition; or

(b) the animal is hunted or coursed in an enclosed space from which it has no reasonable chance of escape.

(2) Nothing in this Act applies in relation to anything which occurs in the normal course of fishing.

Application to the Crown

54.—(1) Subject to the following provisions of this section, this Act and regulations and orders made under it bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of this Act or any regulation or order made under this Act makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), this Act applies to persons in the public service of the Crown as it applies to other persons.

PART 6

SUPPLEMENTARY

Orders and regulations

55.—(1) No regulations (except for regulations made under section 49(5)) shall be made under this Act unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(2) Any regulations made by the Department under section 49(5) shall be subject to negative resolution.

(3) Any order or regulations made by the Department under this Act may contain such supplementary, consequential, transitional or saving provisions as the Department considers necessary or expedient.

Interpretation

56.—(1) In this Act—

"animal" has the meaning given by section 1(1);

"council" means a district council;

"the Department" means the Department of Agriculture and Rural Development;

"premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft;

(b) any tent or movable structure;

"protected animal" has the meaning given by section 2;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

"suffering" means physical or mental suffering;

"veterinary surgeon" means a person who is for the time being registered in the register of veterinary surgeons.

(2) In this Act, references to the occupier of premises, in relation to any vehicle, vessel, aircraft or hovercraft, are to the person who appears to be in charge of the vehicle, vessel, aircraft or hovercraft, and "unoccupied" shall be construed accordingly.

(3) In this Act, references to a part of premises which is used as a private dwelling include any yard, garden, garage or outhouse which is used for purposes in connection with it.

(4) In this Act, references to responsibility, in relation to an animal, are to be read in accordance with section 3.

(5) In this Act, references to the needs of an animal are to be read in accordance with section 9(2).

(6) In this Act, references to a "relevant post-conviction power" are to a power conferred by—

(a) section 32, 33, 34, 36, 39 or 41; or

(b) Article 10(2) of the Dangerous Wild Animals (Northern Ireland) Order 2004 (NI 16) (power to cancel licence under Order and disqualify from carrying on licensable activity).

Minor and consequential amendments and repeals

57.—(1) The statutory provisions set out in Schedule 4 have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 5 are repealed to the extent specified in that Schedule.

Commencement Information

I9 S. 57(2) in operation at 2.4.2012 for specified purposes by S.R. 2012/154, **art. 2(b)**

Transitional provision

58.—(1) Without prejudice to section 55(3), the Department may by order subject to negative resolution make such transitional provision or savings as are considered necessary or expedient in connection with the coming into operation of any provision of this Act.

(2) Section 33(9) shall apply in relation to a disqualification imposed by an order under section 27 of the Welfare of Animals Act (Northern Ireland) 1972 (c. 7) (power to disqualify persons convicted of cruelty to animals) as it applies in relation to a disqualification imposed by an order under section 33(1).

(3) In relation to a person convicted of an offence under section 33(9) by virtue of breaching a disqualification imposed by an order under section 27 of the Welfare of Animals Act (Northern Ireland) 1972, section 34(2) shall have effect with the substitution for the words from "owning" to "keeps" of "having custody of an animal in breach of disqualification under section 27 of the Welfare of Animals Act (Northern Ireland) 1972, the court by or before which that person is convicted may order that all animals of which that person has custody".

(4) Section 42 shall apply in relation to a person who is disqualified by virtue of an order under section 27 of the Welfare of Animals Act (Northern Ireland) 1972 as it applies in relation to a person who is disqualified by virtue of an order under section 33 or 41.

(5) In its application by virtue of subsection (4), section 42(2)(c) shall have effect with the omission of the words "section 33(6), 41(3) or".

Commencement

59 This Act, except section 56, this section and section 60, shall come into operation on such day or days as the Department may by order appoint.

Subordinate Legislation Made

P1 S. 59 power partly exercised: 11.7.2011 appointed for specified provisions by S.R. 2011/245, art. 2, **Sch. 1** (with transitional provision in art. 4)

Short title

60 This Act may be cited as the Welfare of Animals Act (Northern Ireland) 2011.

SCHEDULES

SCHEDULE 1

Section 6(7).

DOGS SPECIFIED FOR THE PURPOSES OF SECTION 6(7)

1 Spaniels of any breed or combination of breeds.

Commencement Information

I10 Sch. 1 para. 1 in operation at 1.1.2013 by S.R. 2012/386, **art. 2(b)**

2 Terriers of any breed or combination of breeds.

Commencement Information

I11 Sch. 1 para. 2 in operation at 1.1.2013 by S.R. 2012/386, **art. 2(b)**

3 Any breed commonly used for hunting, or any combination of such breeds.

Commencement Information

I12 Sch. 1 para. 3 in operation at 1.1.2013 by S.R. 2012/386, **art. 2(b)**

4 Any breed commonly used for pointing, or any combination of such breeds.

Commencement Information

I13 Sch. 1 para. 4 in operation at 1.1.2013 by S.R. 2012/386, **art. 2(b)**

5 Any breed commonly used for retrieving, or any combination of such breeds.

Commencement Information

I14 Sch. 1 para. 5 in operation at 1.1.2013 by S.R. 2012/386, **art. 2(b)**

SCHEDULE 2 Section 12(10).

REGULATIONS UNDER SECTION 12

PART 1

LICENCES FOR THE PURPOSES OF SECTION 12

Introductory

1 This Part has effect in relation to regulations under section 12(7) about licences for the purposes of section 12.

Licensing authority

2 Regulations shall provide for the licensing authority to be—

(a) a council; or

(b) the Department.

3 Where the licensing authority is a council, regulations may require the council to have regard in carrying out its functions under the regulations to such guidance as may be issued by the Department.

Period of licence

4 Regulations may, in particular—

(a) make provision about the period for which licences are to be granted;

(b) make provision, in connection with the death of the holder of a licence, for the continuation in force of the licence for such period and subject to such conditions as the regulations may provide.

5 Regulations may not provide for licences to be granted for a period of more than 3 years.

Exercise of licensing functions

6 Regulations may, in particular—

(a) require a licensing authority not to grant a licence unless satisfied as to a matter specified in the regulations;

(b) require a licensing authority to have regard, in deciding whether to grant a licence, to a matter specified in the regulations.

7 Regulations must make provision requiring a licensing authority not to grant a licence authorising the carrying on of an activity on specific premises unless the premises have been inspected as the regulations may provide.

Grant of licence subject to conditions

8.—(1) Regulations may, in particular, make provision for the grant of a licence subject to conditions.

(2) Provision of the kind mentioned in sub-paragraph (1) may—

(a) enable a licensing authority to attach conditions to a licence;

(b) require a licensing authority to attach to a licence conditions specified in the regulations.

Breach of licence condition

9.—(1) Regulations may provide for breach of a condition of a licence to be an offence.

(2) Regulations may provide that an offence of breach of condition of a licence is to be treated as a relevant offence for the purposes of section 22.

(3) Regulations may apply a relevant post-conviction power in relation to conviction for an offence of breach of condition of a licence.

Appeals

10 Regulations may, in particular, make provision for appeals in relation to decisions of a licensing authority under the regulations.

Fees

11 Regulations may include provision for fees or other charges in relation to the carrying out of functions of the licensing authority under the regulations.

PART 2

REGISTRATION FOR THE PURPOSES OF SECTION 12

Introductory

12 This Part has effect in relation to regulations under section 12(7) about registration for the purposes of section 12.

Registering authority

13 Regulations shall provide for the registering authority to be—

(a) a council; or

(b) the Department.

14 Where the registering authority is a council, regulations may require the council to have regard in carrying out its functions under the regulations to such guidance as may be issued by the Department.

Exercise of registration functions

15 Regulations may, in particular—

(a) require a registering authority not to register an applicant for registration unless satisfied as to a matter specified in the regulations;

(b) require a registering authority to have regard, in deciding whether to register an applicant for registration, to a matter specified in the regulations.

Appeals

16 Regulations may, in particular, make provision for appeals in relation to decisions of a registering authority under the regulations.

Fees

17 Regulations may include provision for fees or other charges in relation to the carrying out of functions of the registering authority under the regulations.

PART 3

SUPPLEMENTARY

18 Power to make regulations under section 12(7) includes power to make provision for purposes other than the purpose of securing the welfare of animals for which a person is responsible.

19.—(1) Without prejudice to section 55(3), power to make regulations under section 12 includes power to make incidental, supplementary, consequential or transitional provision or savings.

(2) In the case of provision consequential on the repeal of a statutory provision specified in section 12(8), the power under sub-paragraph (1) includes power—

(a) to amend or repeal a statutory provision;

(b) to make provision for the purpose of continuing the effect of a statutory provision repealed under paragraph (a).

(3) The power under sub-paragraph (2)(b) includes power to provide that breach of a provision of the regulations is an offence.

SCHEDULE 3

Section 47.

POWERS OF ENTRY, INSPECTION AND SEARCH: SUPPLEMENTARY

Safeguards etc. in connection with powers of entry conferred by warrant

1.—(1) Articles 17 and 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) shall have effect in relation to the issue of a warrant under section 18(4) or 22(1) to an inspector as they have effect in relation to the issue of a warrant under that provision to a constable.

(2) In their application in relation to the issue of a warrant under section 18(4) or 22(1), Articles 17 and 18 of that Order shall have effect with the following modifications.

(3) In Article 17—

(a) in paragraph (2), omit the words from the end of sub-paragraph (a)(ii) to the end of sub-paragraph (b);

(b) omit paragraphs (2A) and (5A);

(c) in paragraph (5), omit the words from "unless" to the end;

(d) in paragraph (6)(a), omit the words from the end of head (iii) to the end of head (iv);

(e) in paragraph (7), omit the words from "which" to the end.

(4) In Article 18—

(a) omit paragraphs (3A) and (3B);

(b) in paragraph (9), omit the words after sub-paragraph (b).

2.—(1) This paragraph and paragraphs 3 and 4 have effect in relation to the issue to inspectors of warrants under section 26(4) or 27(4); and an entry on premises under such a warrant is unlawful unless it complies with this paragraph and paragraphs 3 and 4.

(2) Where an inspector applies for a warrant, the inspector must—

(a) state the grounds on which the application is made,

(b) state the statutory provision under which the warrant would be issued, and

(c) specify the premises which it is desired to enter.

(3) The inspector must answer any question asked by the lay magistrate hearing the application.

(4) A warrant shall authorise an entry on one occasion only.

(5) A warrant must specify—

(a) the name of the person who applies for it,

(b) the date on which it is issued, and

(c) the statutory provision under which it is issued.

(6) Two copies must be made of a warrant.

(7) The copies must be clearly certified as copies by the lay magistrate who issues the warrant.

3.—(1) A warrant may be executed by any inspector.

(2) A warrant may authorise persons to accompany any inspector who is executing it.

(3) A person authorised under sub-paragraph (2) has the same powers as the inspector whom that person accompanies in respect of the execution of the warrant, but may exercise those powers only in the company of, and under the supervision of, an inspector.

(4) Execution of a warrant must be within three months from the date of its issue.

(5) Execution of a warrant must be at a reasonable hour unless it appears to the inspector executing it that the purpose of entry may be frustrated on an entry at a reasonable hour.

(6) Where the occupier of premises which are to be entered under a warrant is present at the time when an inspector seeks to execute it, the inspector must—

(a) identify himself or herself to the occupier and shall produce to the occupier documentary evidence that he or she is an inspector,

(b) produce the warrant to the occupier, and

(c) supply the occupier with a copy of it.

(7) Where—

(a) the occupier of premises which are to be entered under a warrant is not present when an inspector seeks to execute it, but

(b) some other person who appears to the inspector to be in charge of the premises is present,

sub-paragraph (6) shall have effect as if any reference to the occupier were a reference to that other person.

(8) If there is no person present who appears to the inspector to be in charge of the premises, the inspector must leave or affix a copy of the warrant in a prominent place on the premises.

(9) A warrant which—

(a) has been executed; or

(b) has not been executed within the time authorised for its execution,

shall be returned to the clerk of petty sessions for the petty sessions district in which the lay magistrate who issued the warrant was acting when the warrant was issued.

(10) A warrant which is returned under sub-paragraph (9) shall be retained by the officer to whom it is returned for 12 months from its return.

(11) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, the occupier shall be allowed to do so.

4.—(1) An inspector who enters any premises by virtue of a warrant must comply with a code of practice which has been published under sub-paragraph (4) and has not been withdrawn.

(2) The Department must prepare a code of practice in connection with the exercise by inspectors of a power of entry conferred by virtue of a warrant.

(3) After preparing a draft of the code the Department—

(a) must publish the draft in such manner as it thinks appropriate and invite representations regarding the draft;

(b) must consider any representations made to it regarding the draft; and

(c) may amend the draft accordingly.

(4) After the Department has proceeded under sub-paragraph (3) it must publish the code in such manner as it thinks appropriate.

(5) The Department must from time to time review the code and if it thinks it appropriate revise the code.

(6) Sub-paragraphs (2) to (4) apply to a revision of the code as they apply to its preparation.

Duty to produce evidence of identity

5.—(1) This paragraph applies to a power of entry conferred by section 18(1), 21(2), 24(2), 25(2), 26(2), 27(2), 28(2), 48 or 49.

(2) A person may only exercise a power of entry to which this paragraph applies if on request—

(a) that person produces evidence of his or her identity and of entitlement to exercise the power,

(b) that person outlines the purpose for which the power is exercised.

Power to take persons onto premises

6 In exercising a power to which paragraph 5 applies, a person may be accompanied on to the premises by such persons as that person thinks appropriate.

Duty to exercise power of entry at reasonable time

7 Entry under a power to which paragraph 5 applies must be at a reasonable time, unless it appears to the person exercising the power that the purpose for which that person is exercising the power would be frustrated on entry at a reasonable time.

Power to require assistance

8.—(1) This paragraph applies to a power of entry conferred by—

(a) section 18(1), 21(2), 24(2), 25(2), 26(2), 27(2) or 28(2); or

(b) a warrant under section 18(4), 21(4), 22(1), 26(4) or 27(4).

(2) Where a person enters premises in the exercise of a power of entry to which this paragraph applies, that person may require any qualifying person on the premises to give such assistance as may reasonably be required for the purpose for which entry is made.

(3) The reference in sub-paragraph (2) to a qualifying person is to—

(a) the occupier of the premises;

(b) any person who appears to the person exercising the power to be responsible for animals on the premises;

(c) any person who appears to the person exercising the power to be under the direction or control of a person mentioned in paragraph (a) or (b).

(4) In the case of a power under section 24(2), the reference in sub-paragraph (2) to a qualifying person also includes the holder of a licence—

(a) specifying the premises as premises on which the carrying on of an activity is authorised; or

(b) relating to an activity which is being carried on on the premises.

Power to take equipment onto premises

9 In exercising a power to which paragraph 8 applies, a person may take with him or her such equipment and materials as he or she thinks appropriate.

Duty to leave premises secured

10 If, in the exercise of a power of entry to which paragraph 8 applies, a person enters premises which are unoccupied, that person must leave them as effectively secured against entry as they were found.

Functions in connection with inspection and search

11.—(1) This paragraph applies to—

(a) a power of inspection conferred by section 24(1), 25(1), 26(1), 27(1) or 28(1), and

(b) a power of search conferred by a warrant under section 22(1).

(2) A person exercising a power to which this paragraph applies may—

(a) inspect an animal found on the premises;

(b) inspect any other thing found on the premises, including a document or record (in whatever form it is held);

(c) carry out a measurement or test (including a measurement or test of an animal found on the premises);

(d) take a sample (including a sample from an animal found on the premises or from any substance on the premises which appears to be intended for use as food for such an animal);

(e) mark an animal found on the premises for identification purposes;

(f) remove a carcass found on the premises for the purpose of carrying out a post-mortem examination on it;

(g) take copies of a document or record found on the premises (in whatever form it is held);

(h) require information sorted in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form;

(i) take a photograph of anything on the premises;

(j) seize and detain or remove anything which the person exercising the power reasonably believes to be evidence of any non-compliance, or of the commission of any offence, relevant to the purpose for which the inspection or search is made.

(3) A person taken onto premises under paragraph 6 may exercise any power conferred by sub-paragraph (2) if that person is in the company of, and under the supervision of, a person exercising a power to which this paragraph applies.

12 A person who takes a sample from an animal pursuant to paragraph 11(2)(d) must give a part of the sample, or a similar sample, to any person appearing to be responsible for the animal, if, before the sample is taken, he or she is requested to do so by that person.

13.—(1) Paragraph 11(2)(j) does not include power to seize an item which the person exercising the power has reasonable grounds for believing to be subject to legal privilege (within the meaning of Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)).

(2) A person who seizes anything in exercise of the power under paragraph 11(2)(j) shall on request provide a record of the thing seized to a person showing himself or herself—

(a) to be the occupier of premises on which it was seized; or

(b) to have had possession or control of it immediately before its seizure.

(3) Subject to sub-paragraph (4), anything which has been seized in the exercise of a power under paragraph 11(2)(j) may be retained so long as is necessary in all the circumstances and in particular—

(a) for use as evidence at a trial for a relevant offence; or

(b) for forensic examination or for investigation in connection with a relevant offence.

(4) Nothing may be retained for either of the purposes mentioned in sub-paragraph (3) if a photograph or a copy would be sufficient for that purpose.

14 As soon as reasonably practicable after having exercised a power to which paragraph 11 applies, the person who exercised the power shall—

(a) prepare a written report of the inspection or search, and

(b) if requested to do so by the occupier of the premises, give the occupier a copy of the report.

15.—(1) A person exercising a power of search conferred by a warrant under section 22(1) may (if necessary) use reasonable force in the exercise of powers under paragraph 11 in connection with the execution of the warrant.

(2) A person carrying out an inspection under section 26(1) or 27(1) on premises which that person is authorised to enter by a warrant under section 26(4) or, as the case may be, section 27(4), may (if necessary) use reasonable force in the exercise of powers under paragraph 11 in connection with the inspection.

Functions in connection with entry under section 18

16.—(1) Where a person enters premises in exercise of a power of entry conferred by section 18(1), or by a warrant under section 18(4), that person may—

(a) inspect an animal found on the premises;

(b) remove a carcass found on the premises for the purposes of carrying out a post-mortem examination on it;

(c) remove for those purposes the carcass of an animal destroyed on the premises in exercise of power conferred by section 17(3) or (4);

(d) take a photograph of anything on the premises.

(2) Where a person exercising a power of entry under section 18(1) is accompanied by another person under paragraph 6, the other person may exercise

any power conferred by sub-paragraph (1) if that person is in the company of, and under the supervision of, the person exercising the power of entry.

Offences

17 A person commits an offence if that person—

(a) intentionally obstructs a person in the lawful exercise of a power to which paragraph 8 or 11 applies;

(b) intentionally obstructs a person in the lawful exercise of a power conferred by this Schedule;

(c) fails without reasonable excuse to give any assistance which that person is required to give under paragraph 8.

SCHEDULE 4

Section 57(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Dogs (Northern Ireland) Order 1983 (NI 8)

1 In Articles 4(2)(a), 10(2), 13(2) and 18(1)(b), for "section 27 of the Welfare of Animals Act (Northern Ireland) 1972" substitute " section 33 of the Welfare of Animals Act (Northern Ireland) 2011 ".

2 In Articles 10(5)(a), 13(5)(a) and 34(1) for "Part 3 of the Welfare of Animals Act (Northern Ireland) 1972" substitute " Part 2 of the Welfare of Animals Act (Northern Ireland) 2011 ".

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

3 In section 29—

(a) in subsection (5) for "sections 13 and 14 of the Welfare of Animals Act (Northern Ireland) 1972" substitute " sections 4, 5, 6(1) and (2), 7 and 8 of the Welfare of Animals Act (Northern Ireland) 2011 ";

(b) in subsection (5A) for "sections 13 and 14 of the Welfare of Animals Act (Northern Ireland) 1972" substitute " sections 4, 5, 6(1) and (2) and 7 to 9 of the Welfare of Animals Act (Northern Ireland) 2011 ".

The Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1994 (NI 6)

4 In Article 1(2) for "paragraphs (3) and (4)" substitute " paragraph (4) ".

The Dangerous Wild Animals (Northern Ireland) Order 2004 (NI 16)

5 In Article 2(5) for "Welfare of Animals Act (Northern Ireland) 1972" substitute " Welfare of Animals Act (Northern Ireland) 2011 ".

6 In Article 7—

(a) for paragraph (1)(a) substitute—

"(a) premises in relation to which a licence under section 12 of the Welfare of Animals Act is in force;";

(b) in paragraph (2)—

(i) for "licensed as a zoological establishment" substitute " in relation to which a licence under section 12 of the Welfare of Animals Act is in force ";

(ii) for "establishment" substitute " premises ".

SCHEDULE 5

Section 57(2).

REPEALS

Commencement Information

I15 Sch. 5 partly in operation; Sch. 5 not in operation at Royal Assent see s. 59; Sch. 5 in operation for specified purposes at 11.7.2011 by S.R. 2011/245, **arts. 2**, 3, Schs. 1, 2

I16 Sch. 5 in operation at 2.4.2012 for specified purposes by S.R. 2012/154, arts. 2(b), 3, Sch. 2, **3**

Short Title	Extent of repeal
The Welfare of Animals Act (Northern Ireland) 1972 (c. 7)	The whole Act.
The Diseases of Animals (Northern Ireland) Order 1981 (NI 22)	Articles 21 to 23A.
The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)	In Part 2 of Schedule 6, paragraph 125.
The Dogs (Northern Ireland) Order 1983 (NI 8)	In Article 5, paragraph (c). In Article 47, paragraph (c).
The Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1984 (NI 2)	Article 16. In Article 17(3), the amendment relating to Article 23(c) of the Diseases of Animals (Northern Ireland) Order 1981 (NI 7). Article 17(4).

The Fines and Penalties (Northern Ireland) Order 1984 (NI 3)	In Schedule 3, the entry relating to the Welfare of Animals Act (Northern Ireland) 1972 (c. 7).
The Wildlife (Northern Ireland) Order 1985 (NI 2)	In Schedule 12, paragraph 5.
The Food and Environment Protection Act 1985 (c. 48)	In section 16, subsection (14)(c).
The Animals (Scientific Procedures) Act 1986 (c. 14)	In Schedule 3, paragraph 8.
The Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1994 (NI 6)	Article 1(3). In Article 2(2), the definition of "the 1972 Act". Articles 10 to 15.
The Dangerous Wild Animals (Northern Ireland) Order 2004 (NI 16)	In Article 7(1), sub-paragraph (b).

Status:
Point in time view as at 01/01/2013.

Changes to legislation:
There are currently no known outstanding effects for the Welfare of Animals Act (Northern Ireland) 2011.