

*These notes refer to the Welfare of Animals Act (Northern Ireland)
2011 (c.16) which received Royal Assent on 29 March 2011*

Welfare of Animals Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 - Protection of Animals

Prevention of Harm

Section 4 – Unnecessary suffering

This section sets out the circumstances in which a person who causes or permits an animal to suffer commits an offence. It will be an offence to cause physical or mental suffering, whether by a positive act or an omission, to an animal. This section also sets out considerations in determining whether the suffering is unnecessary. Considerations focus on the necessity, proportionality, humanity and competence of the conduct. Where suffering inevitably occurs in the course of complying with any regulations, licence or code of practice, an offence would not normally be committed as it would be for the overall betterment of the animal's welfare.

Section 5- Prohibited procedures

Prohibited procedures are those which involve interference with the sensitive tissues or bone structure of the animal, for example castration, ear tagging and dehorning. This section does not apply to the docking of a dog's tail which is dealt with in section 6. Section 5 makes it an offence to carry out a prohibited procedure on any protected animal. Exemptions to this prohibition are provided for in the Act and include the carrying out of any procedure by a veterinary surgeon, the diagnosis of disease or any medical treatment, and any procedure specified in regulations made by the Department. Regulations will ensure that normal farming practices (such as castration of lambs and the ear tagging of cattle and sheep) will be permitted which would otherwise be prohibited by the Act.

Section 6 – Docking of dogs' tails

This section prohibits the docking of a dog's tail, otherwise than for the purposes of its medical treatment by a veterinary surgeon or to safeguard its

life. Subsections (4) – (18) provide an exemption subject to certain conditions for certified working dogs involved in law enforcement, lawful pest control or lawful shooting of animals. Schedule 1 sets out the breeds to which an exemption may apply. It will be an offence if a dog is docked under this exemption and not identified in accordance with regulations made by the Department. It will also be an offence to knowingly give false information to a veterinary surgeon in connection with the obtaining of certification for a dog. In addition it will be an offence to take, or cause another person to take, a dog from Northern Ireland for the purpose of having the whole or any part of its tail docked. The section also introduces a ban on the showing of dogs where the tail was docked after the coming into operation of section 6. Subsection (13) provides an exemption which allows a subsection 4 dog to be shown in circumstances where it can demonstrate its working ability.

Section 7 - Administration of poisons etc.

This section creates offences relating to the administration to a protected animal of any poisonous substance or drug without lawful authority or reasonable excuse. This also applies in cases where substances that are otherwise harmless have been administered in a harmful quantity or way.

Section 8 – Fighting etc.

This section creates a number of offences in relation to animal fighting, which is defined as an occasion on which a protected animal is placed with an animal or with a human for the purpose of fighting, wrestling or baiting. This means that an animal fight can be deemed to have taken place, even if both animals are wild animals, as the definition of protected animal under section 2 includes any animal under the control of man, whether on a permanent or temporary basis. Legitimate pest control activities which involve the use of one animal to catch another will not fall within the definition of an animal fight, as the animals are not placed together for the purpose of fighting, wrestling or baiting.

Promotion of Welfare

Section 9 – Ensuring welfare of animals

The welfare offence in this section extends to non-farmed animals. A duty to ensure welfare will apply to all animals for which someone is responsible as defined in section 3. A person who is responsible for an animal has a duty to take steps that are reasonable to ensure its needs are met to the extent required by good practice.

Section 10 - Improvement notices

This section empowers inspectors to issue improvement notices to those responsible for animals if the inspector is of the opinion that a person is not meeting the requirements of section 9. The inspector must state in the notice what the person is failing to do to comply with section 9, the steps that should be

taken in order to comply and the time in which the steps must be taken. Failure to comply with an improvement notice is an offence.

Section 11 - Regulations for securing welfare of animals

This section enables the Department to make regulations to secure the welfare of animals for which a person is responsible, or the progeny of such animals. The inclusion of the progeny of animals in this regulation making power enables regulations to be introduced governing animal breeding that protect the offspring as well as the parent animal.

Section 12 - Licensing or registration of activities involving animals

This section enables the Department to make regulations for the introduction of licensing and registration regimes in relation to activities involving animals for which a person is responsible for the purposes of securing the welfare of animals or the progeny of those animals.

Section 13 - Prohibition on keeping of certain animals

This section enables the Department to make regulations for securing animal welfare by prohibiting the keeping of certain types of animals at domestic or other premises. This power does not extend to zoos licensed or regulated by the Department of the Environment or animals licensed under the Dangerous Wild Animals (Northern Ireland) Order 2004.

Section 14 – Abandonment

This section makes it an offence to abandon an animal irrespective of whether the animal suffers or not.

Section 15 – Transfer of animals by way of sale or prize to persons under 16

This section prohibits the sale of animals to any person under 16. The section also makes it an offence to enter into an arrangement with a person under 16 whereby an animal is to be won as a prize, unless the person under 16 is under the care and control of an adult who has agreed to the arrangement.

Section 16 - Codes of practice

Codes of practice are already widely used to promote the welfare of farmed animals and the Act provides for the introduction of codes of practice for both farmed animals and other animals.