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Changes to legislation: There are currently no known outstanding effects for the Welfare of Animals Act (Northern Ireland) 2011, PART 2. (See end of Document for details)



2011 CHAPTER 16

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;

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- (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;

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- (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.

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(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.

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(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](#)

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.

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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—

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“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—

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- (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

I4 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—

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- (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.

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(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.

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(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—

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- (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.

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