



## 2011 CHAPTER 16

### **PART 2**

#### PROTECTION OF ANIMALS

##### *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.

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

VALID FROM 02/04/2012

### **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.

### **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

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- (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).

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(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,

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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—

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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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