



2011 CHAPTER 16

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

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(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

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- (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.

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(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.

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- (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.

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