

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Animals in distress

Section 18: Powers in relation to animals in distress

82. This section authorises an inspector or police constable who finds a protected animal that is suffering to take those steps that need to be taken immediately to alleviate the animal's suffering (see section 2 for the definition of "protected animal" and section 51 for the definition of "inspector"). Powers of entry are conferred by section 19. Section 18 is wider than the power in the Protection of Animals Act 2000 (which this Act repeals) in three ways. First, the power is available even if no proceedings have been commenced. Secondly, it is not restricted to animals kept for commercial purposes. Thirdly, it allows inspectors to take into possession not only animals which are suffering but also those which are likely to suffer if action is not taken.
83. Under *subsection (3)*, where an animal is suffering to such an extent that there is no alternative but to kill it and a veterinary surgeon issues a certificate to that effect, the enforcement authority (an inspector or police constable) may kill the animal or arrange for it to be killed either where it is or elsewhere, or arrange for those steps to be taken by someone else.
84. *Subsection (4)* allows an inspector or constable to kill an animal without waiting for a vet. This only applies where the animal is suffering to such an extent that there is no alternative but to kill it immediately.
85. *Subsection (5)* authorises an inspector or constable to take a protected animal into possession where a veterinary surgeon certifies that it is suffering or is likely to suffer.
86. *Subsection (6)* authorises the inspector or constable to do the same without the certificate of a veterinary surgeon in an emergency.
87. *Subsection (7)* ensures that where an animal taken into possession under *subsection (5)* has dependent offspring, those offspring can be taken into possession along with it. This ensures that even if the offspring are not themselves suffering or likely to suffer, they can still be taken with the parent.
88. *Subsection (8)* gives an inspector or constable a right to remove the animal to a place of safety. They also have the power to care for the animal either on the premises where it was being kept or elsewhere. This subsection also allows an animal to be marked so it can be identified, for example if it is being kept with similar animals. Any method used to mark the animal would have to be compatible with the ban on mutilations in section 5 of the Act, and any regulations made under section 5(4).
89. *Subsection (10)* gives a vet the power to examine and take samples (such as blood or urine) from an animal so that he can decide if it should be killed or taken into possession.

*These notes refer to the Animal Welfare Act 2006 (c.45)
which received Royal Assent on 8 November 2006*

90. *Subsection (11)* requires an inspector or constable as soon as reasonably practicable to take such steps as are reasonable in all the circumstances to notify the person responsible for the animal that he has taken action under section 18 in relation to that animal. This obligation is only engaged where the inspector or constable acts otherwise than with the knowledge of the person responsible for the animal.
91. *Subsection (13)* allows a person to apply to the court for an order to reimburse him for expenses he incurs when acting under this section. The court can make an order against the person it considers most appropriate. *Subsection (14)* allows the person against whom such an order is made to appeal.