

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Enforcement Powers

Section 22: Seizure of animals involved in fighting offences

110. This section confers on a police constable power to take possession of an animal in relation to which an offence under section 8(1) or (2) has been committed. The use of this power would ensure that a seized animal could not be involved in further fighting offences. The provision will also improve the chances of enforcing a deprivation or destruction order upon conviction. The Police (Property) Act 1897, which provides that a court may order the return of property seized by the police on application by the owner, will apply to animals seized under this power. This will achieve the same outcome as an order under section 20(1)(b) would for an animal seized under section 18(5).
111. The effect of *subsections (3) to (5)* is that the power contained in *subsection (1)* may be exercised in relation to parts of premises used as a private dwelling only if a justice of the peace has issued a warrant authorising entry to them.
112. *Subsection (5)* provides that, before a justice of the peace issues a warrant, he must be satisfied that there are reasonable grounds for believing that an animal used in connection with a fighting offence is to be found on the premises. One of the four conditions set out in section 52 must also be met.
113. *Subsection (6)* provides that the power to seize extends to any animal which took part in the fight in relation to which an offence under section 8(1) or (2) has been committed. So, where an offence under section 8(2) is reasonably suspected, for example, the power to seize extends to the animals used in the fight at which the person was present.

Section 23: Entry and search under warrant in connection with offences

114. This section provides that a justice of the peace may issue a warrant authorising an inspector or a constable to enter premises to search for evidence of offences relating to cruelty, mutilations, tail docking, administration of poisons, fighting, welfare, carrying out relevant activities without a licence or registration, or breaching a disqualification imposed under section 34 (these offences are listed in *subsection (3)*).
115. *Paragraph 10* of Schedule 2 confers a number of additional powers on a person exercising a power of entry under a warrant under this section. The effect of paragraph 14 of the Schedule is that a warrant authorises a person to use reasonable force in the exercise of those additional powers. Note that paragraph 1 of the Schedule imposes a number of safeguards in relation to warrants under the Act.

Section 24: Entry for purposes of arrest

116. This section adds the most serious offences under this Act (those in sections 4, 5, 6(1) and 6(2), 7 and 8(1) and 8(2)) to the list of offences in section 17(1)(c) of the Police and

Criminal Evidence Act 1984. This ensures the police have power to enter and search premises for the purposes of effecting an arrest in connection with these offences.

Section 25: Inspection of records required to be kept by holder of licence

- 117. *Subsection (1)* enables an inspector to require that the holder of a licence, granted under regulations made under section 13, produce any records that he is required to keep by a condition of a licence.
- 118. *Subsection (2)* deals with records stored electronically, for example on a computer. In this case, the inspector may require records to be printed or to be saved onto a disc or similar device. This is to enable them to be taken away and considered without removing the computer on which they are stored.

Section 26: Inspection in connection with licences

- 119. This section concerns powers of inspection in relation to activities for which it is necessary to obtain a licence under section 13(1). It provides that routine inspections may be carried out to check that licence conditions are being complied with. Currently, in relation to some activities that require a licence, inspections can only be made when inspectors suspect an offence has been committed.
- 120. *Subsection (1)* sets out the purposes for which the power of inspection may be exercised. Inspectors can check that any licence conditions are being complied with. They are also able to check that the general requirements of the Act and any secondary legislation made under it are also being complied with.
- 121. *Subsection (2)* confers powers to enter and inspect licensed premises and premises where the inspector reasonably believes a licensed activity is going on. In both cases, the inspector may enter a private dwelling only if he gives 24 hours' notice (*subsection (3)*).
- 122. There is no power for an inspector to apply for a warrant under this section. Powers to apply for a warrant to enter will be available elsewhere in the Act if the inspector reasonably believes that an animal in distress is to be found on the premises (under section 19(4)) or if he reasonably believes an offence has been committed on the premises (under section 23(1)). Other than in these situations, secondary legislation under which the licensing regimes are adopted will give an inspector the power to revoke a licence, or amend its conditions, should a request to enter premises in order to carry out an inspection be unreasonably refused.

Section 27: Inspection in connection with registration

- 123. This section concerns powers of inspection in relation to activities for which it is necessary to register under section 13(3).
- 124. *Subsection (1)* provides that inspections may be carried out to check compliance with any provision in the Act or in secondary legislation relating to an activity for which registration is required.
- 125. *Subsection (2)* confers powers on an inspector to enter premises if he reasonably believes that someone who is registered to carry on an activity is carrying on the registered activity there.
- 126. A private dwelling may only be entered if 24 hours' notice is given (*subsection (3)*).

Section 28: Inspection of farm premises

- 127. This section allows inspectors to enter and inspect farm premises in order to check compliance with regulations made under the Act and in order to ascertain whether an offence under the Act has been committed.

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

- 128. *Subsection (2)* enables an inspector to enter premises to carry out an inspection if he reasonably believes that animals are bred or kept there for farming purposes.
- 129. The effect of *subsections (3) and (4)* is to prohibit entry into any parts of premises used as private dwellings, other than on the authority of a warrant issued by a justice of the peace. They also enable an inspector to use reasonable force to secure entry to premises if a warrant authorises this.
- 130. *Paragraph 10* of Schedule 2 confers a number of additional powers on a person exercising a power of entry under a warrant under this section. The effect of paragraph 14 of the Schedule is that a warrant authorises a person to use reasonable force in the exercise of those additional powers. Note that paragraphs 2 and 3 of the Schedule impose a number of safeguards in relation to warrants under section 28(4).

Section 29: Inspection relating to Community obligations

- 131. This section provides a power for inspectors to enter and check compliance with regulations under section 12 made in order to comply with European Community obligations. This power mirrors a power contained in the Animal Health Act 1981. It does not extend to any parts of premises used as private dwellings (*subsection (3)*).