

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Animals in distress

Section 20: Orders in relation to animals taken under section 18(5)

97. Where an animal has been taken into possession under section 18(5) and the animal is being retained, this section enables a magistrates' court to make an order for the treatment, giving up, disposal or destruction of the animal.
98. *Subsection (1)* provides that the court can make an order relating to the treatment, giving up, sale, disposal or destruction of the animal. If a person responsible for an animal considers it was wrongly taken into possession under section 18(5), he could apply under section 20(1)(b) to have the animal returned.
99. In *subsection (1)(a)* 'treatment' is intended to cover significant interventions such as castration. Routine day-to-day treatment such as worming or routine veterinary attention is considered to be caring for the animal as set out in section 18(8)(b).
100. *Subsection (2)* provides that orders made under *subsection (1)* can also apply to the offspring of an animal that was pregnant at the time it was taken into possession under section 18(5).
101. *Subsection (3)* enables an application to be made to the court for an order under *subsection (1)*, either by the owner of the animal taken into possession or by another person with a sufficient interest in the animal. The court has the discretion to make any order under *subsection (1)* that it considers appropriate, including an order other than that applied for. For example, the court could hear an application for sale under section 20(1)(c), but determine that the animal should be returned to its owner under section 20(1)(b).
102. *Subsection (4)* provides that an order cannot be made unless either the owner has been given an opportunity to be heard, or the court is satisfied that it is not reasonably practical to communicate with him.
103. *Subsection (5)(b)* enables the court to make directions for carrying out an order under *subsection (1)*.
104. *Subsection (6)* provides that the court, when deciding how to exercise its powers under the section, must consider the financial effect the decision will have on the owner of the animal and on others.
105. *Subsection (8)* provides that, where a court orders that the animal taken into possession under section 18(5) be sold, the proceeds of the sale to which the owner is entitled are to be reduced so as to take account of the expenses incurred by the person who seized or cared for the animal under section 18(5), and the expenses incurred by any person carrying out the order for sale.