

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Post-Conviction Powers

Section 32: Imprisonment or fine

136. This section prescribes the penalties for offences under the Act. It distinguishes (at *subsection (5)*) between the penalties available for offences committed before and after the commencement of section 281(5) of the Criminal Justice Act 2003. The new provision for punishment by custodial sentence under the Criminal Justice Act is commonly known as ‘custody plus’. It provides for a short term of imprisonment combined with a period of release on licence, the combined periods totalling not more than 51 weeks. Until this provision comes into force, the maximum term of imprisonment for offences under the Act is six months.
137. The section also ensures that all offences under the Act, or which may be created by regulations under it, are to be dealt with by a magistrates’ court.
138. *Subsection (1)* sets the maximum penalty for an offence under sections 4, 5, 6(1) and (2), 7 and 8 of the Act (cruelty and fighting offences) as imprisonment for a term not exceeding 51 weeks or a fine of up to £20,000, or both. The option of a very high fine is intended for use in very serious cases.
139. *Subsection (2)* sets the maximum penalty for an offence under section 9 (failure to ensure welfare of animals), section 13(6) (carrying on an activity as specified by regulations without a licence or without being registered) or section 34(9) (breaches of disqualifications) as imprisonment for a term not exceeding 51 weeks or a fine up to level 5 on the standard scale (currently £5,000), or both.
140. *Subsection (3)* applies to offences under regulations made under sections 12 (for the promotion of welfare) and 13 (licensing and registration) of the Act. Those regulations may prescribe penalties by way of imprisonment or fine. Section 12(4) provides that a maximum term of imprisonment of 51 weeks and a fine up to level 5 on the standard scale (currently £5,000) or both may be set for offences under regulations made under section 12 for the promotion of welfare. The reason for this is that some breaches of section 12 regulations may be the equivalent of a welfare offence under section 9 and warrant the same penalty. Paragraph 9 of Schedule 1, which applies to regulations made under section 13, provides the same upper limit in relation to breach of licence conditions.
141. *Subsection (4)* provides that all other offences under the Act attract a maximum penalty of 51 weeks’ imprisonment or a fine up to level 4 on the standard scale (currently £2,500), or both. These offences include obstruction of inspectors.