

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

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Post-Conviction Powers

Section 35: Seizure of animals in connection with disqualification

153. *Subsection (1)* enables a court to combine a disqualification order with an order that any animals owned or kept by the person disqualified be seized, where continued ownership or possession would put him in breach of the disqualification. Such an order could be made by the court when a person was convicted of any of the offences under the sections relating to cruelty, fighting, welfare or operating without a required licence or without registering where this is required or of a breach of a previous disqualification order.
154. *Subsection (2)* deals with the case where a person is disqualified under section 34 from owning or keeping animals and is then convicted of the offence under section 34(9) of breaching the disqualification. It provides for the seizure of all animals that are owned or kept by that person in breach of the disqualification.
155. A seizure order made under section 35(1) or 35(2) differs from a deprivation order made under section 33(2) in that a deprivation order may only be made against a convicted owner. A seizure order under these subsections may also be made against a person who keeps an animal in breach of a disqualification order.
156. A further distinction between a seizure order made under section 35(1) or 35(2), and a deprivation order made under section 33(2), is that the former does not involve depriving the owner of his economic interest in it. Unlike an owner who is the subject of a deprivation order, an owner whose animal is seized under section 35 continues to be entitled to any disposal proceeds (less any relevant expenses).
157. The effect of *subsections (3) and (4)* is that if an animal seized under *subsection (1) or (2)* is owned by the disqualified person, it automatically falls to be disposed of. But, if it is not, the court must order how it can be disposed of. *Subsection (5)* ensures in this case that the owner has a chance to intervene. *Subsection (6)* enables the owner to appeal against any order for disposal that may be made.