



**Isle of Man**

*Ellan Vannin*

**AT 5 of 2023**

**ANIMAL WELFARE ACT 2023**





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## ANIMAL WELFARE ACT 2023

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**Isle of Man***Ellan Vannin*

## ANIMAL WELFARE ACT 2023

*Signed in Tynwald:* 12 December 2023  
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**AN ACT** to make provision relating to animal welfare and to empower the Department of Environment, Food and Agriculture to apply legislation of the United Kingdom relating to the welfare of animals to the Island; and for connected purposes.

**BE IT ENACTED** by the King's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

### PART 1 – INTRODUCTORY

#### 1 Short title

The short title of this Act is the Animal Welfare Act 2023.

#### 2 Commencement

- (1) This Act (other than section 1 and this section) comes into operation on such day or days as the Department of Environment, Food and Agriculture may by order appoint.  
Tynwald procedure — laying only.
- (2) An order under subsection (1) may include such supplementary, incidental, consequential, transitional, transitory and saving provision as the Department of Environment, Food and Agriculture considers necessary or expedient.
- (3) Without limiting subsection (2), a transitional provision in an order made under subsection (1) may provide that a code made under the *Animal Health Act 1996* is to be treated as a code of practice made by order under section 6 of this Act.

### 3 Interpretation

(1) In this Act —

“**applied legislation**” means any UK legislation applied to the Island by order made under section 9(1);

“**the Department**” means the Department of Environment, Food and Agriculture;

“**inspector**” has the meaning given in section 28(1);

“**licence**” means, except in section 34, a licence issued under the *Riding Establishments (Inspections) Act 1968*, *Animal Boarding Establishments (Isle of Man) Act 1973* or the *Breeding of Dogs and Cats Act 1981*;

“**livestock**” has the meaning given in section 59 (other interpretation provisions) of the *Animal Health Act 1996*;

“**premises**” means any place;

“**relevant post-conviction power**” means a power in any of sections 18 to 27;

“**UK legislation**” means any legislation of the United Kingdom which concerns animal welfare directly or indirectly.

(2) The Department may by order amend the definition of “licence”.

Tynwald procedure — negative.

## PART 2 — ANIMAL WELFARE

### *Principles of animal welfare*

### 4 Animals to which the Act applies

P2006/45/1

(1) In every provision of this Act except subsections (4) and (5), “animal” means a vertebrate other than man.

(2) Nothing in this Act applies to an animal while it is in its foetal or embryonic form.

(3) The Department may by order for all or any of the purposes of this Act —

(a) extend the definition of “animal” so as to include invertebrates of any description;

(b) make provision in lieu of subsection (2) as respects any invertebrates included in the definition of “animal”; and

(c) amend subsection (2) to extend the application of this Act to an animal from such earlier stage of its development as may be specified in the order.

Tynwald procedure – approval required.

- (4) The power under subsection (3)(a) or (c) may only be exercised if the Department is satisfied, on the basis of scientific evidence, that animals of the kind concerned are capable of experiencing pain or suffering.
- (5) In this section, “vertebrate” means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and “invertebrate” means any animal not of that Sub-phylum.

## 5 Responsibility for animals

P2006/45/3

- (1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.
- (2) In this Act, references to being responsible for an animal include being in charge of it.
- (3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.
- (4) For the purposes of this Act, where a person (P) is responsible for a person under the age of 16 (B), P shall be treated as responsible for any animal for which B has actual care and control.

### *Promotion of animal welfare*

## 6 Duty of person responsible for animal to ensure welfare

P2006/45/9, 14 & 15 and drafting

- (1) A person commits an offence if the person does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which the person is responsible are met to the extent required by good practice.  
Maximum penalty — (summary) — 12 months’ custody, or a fine of level 5 on the standard scale or both.
- (2) For the purposes of this Act, an animal’s needs shall be taken to include —
  - (a) its need for a suitable environment;
  - (b) its need for a suitable diet;
  - (c) its need to be able to exhibit normal behaviour patterns;
  - (d) any need it has to be housed with, or apart from, other animals; and
  - (e) its need to be protected from pain, suffering, injury and disease.
- (3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular —
  - (a) any lawful purpose for which the animal is kept; and
  - (b) any lawful activity undertaken in relation to the animal.

- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.
- (5) For the purposes of subsection (1), the Department may by order –
- (a) issue a code of practice;
  - (b) approve a code of practice, issued by –
    - (i) the Department under any enactment;
    - (ii) any other person (including a person outside the Island);and
  - (c) from time to time revise a code of practice,
- for the purpose of providing practical guidance in respect of the meaning of good practice.
- Tynwald procedure – negative.
- (6) The Department shall publish a code of practice under subsection (5) and any revision of it, in such manner as it considers appropriate.
- (7) A person’s failure to comply with a provision of a code of practice issued under this section shall not of itself render the person liable to proceedings of any kind.
- (8) In any proceedings against a person for an offence under this Act or an offence under regulations under section 10 or section 11 –
- (a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability;
  - (b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.
- (9) Where the Department proposes to issue, approve or revise a code of practice under subsection (5), it shall –
- (a) in the case of a code to be issued or revised, prepare a draft of the code;
  - (b) in all cases –
    - (i) consult such persons as it considers represent interests which will be affected by the code; and
    - (ii) consider any representations made by such persons.

## 7 Care improvement notices

P2006/45/10 and drafting

- (1) If an inspector is of the opinion that a person is failing to comply with section 6, the inspector may serve on the person a notice (“a care improvement notice”) which –
- (a) states that the inspector is of that opinion;



- (b) specifies the respects in which the inspector considers the person is failing to comply with that provision;
  - (c) specifies the steps the inspector considers need to be taken in order to comply with the provision;
  - (d) specifies a period for the taking of those steps (“the compliance period”); and
  - (e) explains the effect of subsections (2) and (3).
- (2) Where a care improvement notice is served, no proceedings for an offence under section 6(1) may be instituted before the end of the compliance period, in respect of —
- (a) the non-compliance which gave rise to the notice; or
  - (b) any continuation of that non-compliance.
- (3) If the steps specified in a care improvement notice are taken at any time before the end of the compliance period, no proceedings for an offence under section 6(1) may be instituted in respect of —
- (a) the non-compliance which gave rise to the notice; or
  - (b) any continuation of that non-compliance prior to the taking of the steps specified in the notice.
- (4) An inspector may extend, or further extend, the compliance period specified in a care improvement notice.
- (5) A person aggrieved by the decision to serve a care improvement notice on him or her may appeal to a court of summary jurisdiction, which may uphold the notice or revoke it.

## **8 Transfer of animals by way of sale or prize to persons under 16**

P2006/45/11 and drafting

- (1) A person (P) commits an offence if P sells an animal to a person who is under the age of 16 years.
- Maximum penalty — (summary) — 12 months’ custody, or a fine of level 4 on the standard scale or both.
- (2) For the purposes of subsection (1), selling an animal includes transferring or agreeing to transfer ownership of the animal in consideration of entry by the transferee into another transaction.
- (3) Subject to subsections (4) to (6), a person (P) commits an offence if —
- (a) P enters into an arrangement with a person (B) who is under the age of 16 years; and
  - (b) the arrangement is one under which B has the chance to win an animal as a prize.
- Maximum penalty — (summary) — 12 months’ custody, or a fine of level 4 on the standard scale or both.

- (4) A person (P) does not commit an offence under subsection (3) if —
  - (a) P enters into the arrangement in the presence of the person with whom the arrangement is made (B); and
  - (b) B is accompanied by a person who is not under the age of 16 years.
- (5) A person (P) does not commit an offence under subsection (3) if —
  - (a) P enters into the arrangement otherwise than in the presence of the person with whom the arrangement is made (B); and
  - (b) a person who has actual care and control of B has consented to the arrangement.
- (6) It is a defence for a person (P) charged with an offence under this section to prove that P had reasonable cause to believe that —
  - (a) the person who was, at the time of the offence, under the age of 16 had at that time attained the age of 16;
  - (b) where subsection (5)(b) applies, the person who at the time of the offence had actual care and control of B had consented to the arrangement.
- (7) A person (P) does not commit an offence under subsection (3) if P enters into the arrangement in a family context.

## 9 Application of legislation relating to the welfare of animals

- (1) For the purpose of promoting the welfare of animals, the Department may by order apply to the Island any provision of UK legislation to such extent and subject to such exceptions, modifications or adaptations, as may be specified in the order.

Tynwald procedure — approval required.
- (2) An order made under subsection (1) shall —
  - (a) specify the exceptions, adaptations and modifications subject to which the applied legislation applies to the Island;
  - (b) have annexed to it a text of the applied legislation incorporating the exceptions, adaptations and modifications specified in the order; and
  - (c) include provision repealing or amending any provision of an enactment which appears to the Department to be inconsistent with, or to be unnecessary or to require modification in consequence of, the order applying or any regulations implementing the applied legislation.
- (3) Where an order made under subsection (1) applies to the Island —
  - (a) UK legislation that was made under delegated powers (hereafter in this subsection “the delegated legislation”); or

- (b) UK legislation that was not made under delegated powers but refers to other UK legislation that was made under delegated powers (the “other UK legislation” also hereafter in this subsection “the delegated legislation”),  
the order may provide that the delegated legislation is to be construed as the delegated legislation as amended in the UK from time to time.
- (4) Where an order under subsection (1) makes provision pursuant to subsection (3), subsections (5) and (6) apply to the order.
- (5) To avoid doubt, the text to be annexed under subsection (2)(b) is the text of the applied legislation at the time the order is made.
- (6) Despite subsection (5), the Department —
  - (a) may update the text annexed under subsection (2)(b) to reflect any amendment made to the applied legislation after the making of the order; and
  - (b) shall update the text if a person requests an updated text of the applied legislation.
- (7) The Department shall —
  - (a) conduct a public consultation before making an order under subsection (1) that will apply to the Island UK legislation that was not made under delegated powers;
  - (b) before making an order under subsection (1) that will apply to the Island UK legislation that was made under delegated powers, consult such persons as it considers represent interests which will be affected by the order.

## **10 Implementation by regulations of legislation relating to the welfare of animals**

- (1) The Department may make such regulations as appear to it to be necessary or expedient to implement the applied legislation and may make such provision as it considers appropriate to deal with any matter arising out of or related to any such implementation.  
Tynwald procedure — approval required.
- (2) Before making regulations under subsection (1), the Department shall consult such persons as it considers represent interests which will be affected by the regulations.
- (3) Without limiting subsection (1), regulations may —
  - (a) provide for their contravention to be an offence on summary conviction of which the maximum penalty shall be 12 months’ custody or a fine, or both; provided that, in any event, the level of the fine shall be determined as follows —

- (i) for any offence other than one to which subparagraph (ii) applies —
    - (A) the fine shall not exceed level 5 on the standard scale; or
    - (B) if the offence relates to more than 10 animals, the fine shall not exceed level 3 on the standard scale for each animal;
  - (ii) for an offence in relation to livestock —
    - (A) if the offence relates to more than 10 animals, the fine shall not exceed level 3 on the standard scale for each animal; or
    - (B) if the offence relates to fodder, litter, excrement or other things (exclusive of animals), there shall be a fine (which shall not exceed level 5 on the standard scale) for the first 500 kilograms in weight thereof and an additional fine (which shall not exceed level 3 on the standard scale) for every further 500 kilograms in weight thereof;
  - (b) apply a relevant post-conviction power in relation to conviction for an offence under the regulations;
  - (c) make provision for fees to be prescribed under the general fee power as defined in section 81(2) of the *Interpretation Act 2015*;
  - (d) make different provision for different cases or areas;
  - (e) provide for exemptions from a provision of the regulations, either subject to specified conditions or without conditions;
  - (f) permit a person to exercise a discretion in respect of any matters specified in the regulations;
  - (g) require compliance with standards or the adoption of practices recommended or specified from time to time (whether before or after the making of the regulations) by a specified person or body; and
  - (h) make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (4) Regulations under subsection (1) may provide that a specified offence under the regulations is to be treated as a relevant offence for the purposes of section 15.
- (5) In this section, “specified” means specified in regulations under subsection (1).

## 11 Regulations to promote welfare

P2006/45/12 and drafting

- (1) The Department may by regulations make such provision as it thinks fit for the purpose of promoting the welfare of animals for which a person is responsible, or the progeny of such animals.  
Tynwald procedure – approval required.
- (2) Without limiting subsection (1), regulations may –
  - (a) make provision imposing specific requirements for the purpose of securing that the needs of animals are met;
  - (b) make provision to facilitate or improve co-ordination in relation to the carrying out by different persons of functions relating to the welfare of animals;
  - (c) make provision for the establishment of one or more bodies with functions relating to advice about the welfare of animals.
- (3) Power to make regulations under subsection (1) includes power –
  - (a) to provide for their contravention to be an offence on summary conviction of which the maximum penalty shall be 12 months' custody or a fine, or both; provided that, in any event, the level of the fine shall be determined as follows –
    - (i) for any offence other than one to which subparagraph (ii) applies, –
      - (A) the fine shall not exceed level 5 on the standard scale; or
      - (B) if the offence relates to more than 10 animals, the fine shall not exceed level 3 on the standard scale for each animal;
    - (ii) for an offence in relation to livestock –
      - (A) if the offence relates to more than 10 animals, the fine shall not exceed level 3 on the standard scale for each animal; or
      - (B) if the offence relates to fodder, litter, excrement or other things (exclusive of animals), there shall be a fine (which shall not exceed level 5 on the standard scale) for the first 500 kilograms in weight thereof and an additional fine (which shall not exceed level 3 on the standard scale) for every further 500 kilograms in weight thereof;
  - (b) to apply a relevant post-conviction power in relation to conviction for an offence under the regulations;
  - (c) to make provision for fees to be prescribed under the general fee power as defined in section 81(2) of the *Interpretation Act 2015*;

- (d) to make different provision for different cases or areas;
  - (e) to provide for exemptions from a provision of the regulations, either subject to specified conditions or without conditions;
  - (f) to permit a person to exercise a discretion in respect of specified matters;
  - (g) to require compliance with standards or the adoption of practices recommended or specified from time to time (whether before or after the making of the regulations) by a specified person or body;
  - (h) to make supplementary, incidental, consequential, transitional, transitory or savings provision.
- (4) Regulations under subsection (1) may provide that a specified offence under the regulations is to be treated as a relevant offence for the purposes of section 15.
- (5) Before making regulations under subsection (1), the Department shall consult such persons as it considers represent interests which will be affected by the regulations.
- (6) In this section, “specified” means specified in regulations under subsection (1).

*Enforcement powers and prosecution*

## **12 Review of licences following conviction**

- (1) The authority by which a licence was issued (“the licensing authority”) may review a licence held by a person (P) convicted of an offence under –
- (a) section 6 or 8; or
  - (b) any regulations made under section 10 or 11.
- (2) In the course of a review, the licensing authority shall –
- (a) afford P the opportunity to make representations, either personally or through a legal or other representative, on P’s own behalf with a view to influencing the licensing authority’s decision under subsection (3) regarding P’s licence;
  - (b) in its deliberations give due consideration to any representations so made.
- (3) At the conclusion of a review the licensing authority may –
- (a) take no action with respect to P’s licence;
  - (b) take any one or more of the following actions –
    - (i) alter the terms of the licence, impose additional conditions on the licence, or both;
    - (ii) suspend the licence; or

- (c) cancel the licence and, if the licensing authority considers that the nature of the offence of which P was convicted is sufficiently serious to so warrant, —
  - (i) disqualify P from holding a licence for such period as it thinks fit;
  - (ii) rule that, despite subsection (5), the decision to cancel the licence is to take effect immediately (despite P's having appealed under subsection (4)).
- (4) If aggrieved by the decision of the licensing authority under subsection (3), P may, within 14 days after the day on which the decision was given, appeal to a court of summary jurisdiction, which may uphold, vary or overturn the decision.
- (5) Subject to subsections (3)(c)(ii) and (6), where P appeals under subsection (4) the decision of the licensing authority does not take effect unless either of the following transpires —
  - (a) the appeal is withdrawn;
  - (b) the court of summary jurisdiction upholds the decision.
- (6) A ruling made by the licensing authority under subsection (3)(c)(ii) has the force of law pending the determination or withdrawal of an appeal under subsection (4).

### 13 Animal Welfare Register

P1988/30/3 and drafting

- (1) The Department may maintain a register (“the Animal Welfare Register”) in which it makes an entry in relation to —
  - (a) a care improvement notice served by an inspector under section 7; and
  - (b) a disqualification order made by the court under section 19.
- (2) Where a care improvement notice is served or a disqualification order made, subject to the following provisions the Department shall make an entry in the Animal Welfare Register —
  - (a) where an appeal is not made within the time limited for doing so, within 14 days following the day on which the time so limited expires; or
  - (b) where an appeal is brought, within 14 days following the day on which the appeal is finally disposed of.
- (3) An entry mentioned in subsection (1) shall not be made in relation to a care improvement notice or a disqualification order if the appellant is successful on an appeal.
- (4) An entry mentioned in subsection (1) shall include —

- (a) in the case of a care improvement notice —
    - (i) the date upon which the notice was served;
    - (ii) the name, address and contact details of the person upon whom the notice was served; and
    - (iii) the information referred to in section 7(1)(b), (c) and (d); and
  - (b) in the case of a disqualification order —
    - (i) the date upon which the order was made;
    - (ii) the name, address and contact details of the person against whom the order was made;
    - (iii) details of the matters to which the disqualification applies; and
    - (iv) the period for which the disqualification applies.
- (5) Where the Department is satisfied that a care improvement notice has been complied with, an entry to that effect shall be made in the Animal Welfare Register within 7 days from the day on which the Department is so satisfied.
- (6) Subject to subsection (7), an entry shall be kept in the Animal Welfare Register —
- (a) in the case of a care improvement notice, for a period of 10 years from the date on which the notice was served; and
  - (b) in the case of a disqualification order, for the period of disqualification provided for in the order.
- (7) In the case of a person —
- (a) in respect of whom there is an entry in the Animal Welfare Register (“the existing entry”); and
  - (b) who receives a subsequent care improvement notice in respect of which an entry in the Animal Welfare Register is made (“the subsequent entry”),
- the period referred to in subsection (6) shall, in respect of the existing entry, begin again from the date of the subsequent entry.
- (8) Where the Department or an inspector takes a decision in relation to a matter to which animal welfare is relevant and which concerns a person in relation to whom an entry is made in the Animal Welfare Register, in relation to —
- (a) a care improvement notice, which was not complied with within the compliance period (see section 7); or
  - (b) a disqualification order,
- if satisfied that the information is relevant, the Department or the inspector (as the case may be) may take the entry into account.



- (9) The Department may, after consulting the Isle of Man Information Commissioner (as defined in section 52 of the *Freedom of Information Act 2015*), by order –
- (a) amend –
    - (i) subsection (4) to amend the details an entry in the Animal Welfare Register may contain; and
    - (ii) subsection (6), to amend the periods for which an entry may be kept on the Animal Welfare Register;
  - (b) for the purposes of subsection (8), define “a matter to which animal welfare is relevant”.
- Tynwald procedure – approval required.
- (10) The processing of personal data under this section is by a competent authority for the purpose of –
- (a) the prevention, investigation or prosecution of a criminal offence;
  - (b) the execution of a criminal penalty,
- within the meaning of Article 1, paragraph 1 of the applied LED.
- (11) For the purposes of Articles 12, 13, 14, 16 and 17 of the applied LED as they relate to the processing of personal data under this section, the Department must –
- (a) make the required provision regarding rights of the data subject by means of a code of practice; and
  - (b) lay such code of practice before Tynwald.
- (12) In this section, “applied LED” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018<sup>1</sup>.

### 13A Record of Complaints

- (1) The Department may maintain a record (“the Record of Complaints”) in which it makes an entry in relation to a complaint received by it or an inspector in respect of animal welfare.
- (2) An entry in the Record of Complaints shall include –
- (a) details of the complaint;
  - (b) the date on which the complaint was received;
  - (c) the name of and any contact details for the person against whom the complaint was made;
  - (d) the name, address and contact details of the person who made the complaint; and
  - (e) any action taken by the Department or an inspector pursuant to the complaint.

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<sup>1</sup> SD No. 2018/0145

- (3) Where the Department chooses to investigate a complaint, it must do so within 6 months of the date on which an entry in the Record of Complaints has been made in respect of the complaint.
- (4) Subject to subsection (5), the Department may by regulations prescribe retention periods for entries in the Record of Complaints and, in so doing, may prescribe different retention periods depending on –
  - (a) whether or not it has acted in accordance with subsection (3) in respect of the complaint to which an entry in the Record of Complaints relates;
  - (b) whether or not it has received another complaint after an entry in the Record of Complaints has been made and, if so, how soon after the initial complaint was made the Department received the subsequent complaint;
  - (c) whether or not, having acted in accordance with subsection (3), it is satisfied that the complaint was warranted.

Tynwald procedure – approval required.

- (5) The Department may not prescribe for an entry in the Record of Complaints a retention period in excess of 3 years from the date on which the entry was made.
- (6) The processing of personal data under this section is by a competent authority for the purpose of the prevention, investigation or prosecution of a criminal offence, within the meaning of Article 1, paragraph 1 of the applied LED.
- (7) Section 13(11) applies to the processing of personal data under this section as it applies to such processing under that section.
- (8) In this section –

“applied LED” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018<sup>2</sup>;

“complaint” means a complaint, made by a person, pertaining to how an animal is being treated by a person responsible for it.
- (9) For the avoidance of doubt, a complaint in this section is not the type of complaint referred to in section 17(1).

#### **14 Disclosure of information from the Animal Welfare Register or the Record of Complaints by the Department when responding to external requests**

IOM2017/3/28 & IOM2019/6/40 & IOM1970/3/106D and drafting

- (1) The Department, in response to a request made by an authorised body in such manner and form as the Department may require, may (subject to subsection (5)) disclose to the authorised body information recorded in the

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<sup>2</sup> SD No. 2018/0145

Animal Welfare Register or the Record of Complaints if the Department is satisfied that –

- (a) the request is made in furtherance of the functions of the authorised body; and
  - (b) the making of the disclosure is proportionate to what is sought to be achieved by it.
- (2) Nothing in this Act authorises a disclosure, in contravention of the provisions of the data protection legislation, of personal data which is not exempt from those provisions.
- (3) In this section –
- “authorised body” means –
- (a) an inspector who is not employed by the Department;
  - (b) the Animal and Plant Health Agency, an executive agency of the Department for Environment, Food & Rural Affairs;

“data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018.

- (4) The Department may by order amend the definition of “authorised body”.  
Tynwald procedure – approval required.
- (5) Where the Department makes an order under subsection (4), it may not disclose information recorded in the Record of Complaints to an authorised body that is not established by statute.

## **15 Entry and search under warrant in connection with offences**

P2006/45/23

- (1) Subject to subsection (2), a justice of the peace may, on the application of an inspector or constable, issue a warrant authorising an inspector or a constable to enter premises, if necessary using reasonable force, in order to search for evidence of the commission of a relevant offence.
- (2) The power to issue a warrant under subsection (1) is exercisable only if the justice of the peace is satisfied –
  - (a) that there are reasonable grounds for believing –
    - (i) that a relevant offence has been committed on the premises; or
    - (ii) that evidence of the commission of a relevant offence is to be found on the premises; and
  - (b) that section 29 is satisfied in relation to the premises.
- (3) In this section, “relevant offence” means an offence under section 6 or 19(10).

## 16 Inspection of farm premises

P2006/45/28

- (1) An inspector may carry out an inspection in order to —
  - (a) check compliance with regulations under section 10 or section 11, which relate to animals bred or kept for farming purposes;
  - (b) ascertain whether any offence under or by virtue of this Act has been or is being committed in relation to such animals.
- (2) An inspector may enter premises which the inspector reasonably believes to be premises on which animals are bred or kept for farming purposes in order to carry out an inspection under subsection (1).
- (3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.
- (4) Subject to subsection (5), a justice of the peace may, on the application of an inspector, issue a warrant authorising an inspector to enter premises, if necessary using reasonable force, in order to carry out an inspection under subsection (1).
- (5) The power to issue a warrant under subsection (4) is exercisable only if the justice of the peace is satisfied —
  - (a) that it is reasonable to carry out an inspection on the premises; and
  - (b) that section 29 (conditions for grant of warrant) is satisfied in relation to the premises.

## 17 Time limits for prosecutions

P2006/45/31

- (1) Notwithstanding anything in section 75(1) of the *Summary Jurisdiction Act 1989* (limitation of time), a court of summary jurisdiction may try a complaint relating to an offence under this Act if the complaint is laid —
  - (a) within 3 years of the commission of the offence; and
  - (b) within 6 months of the prosecutor's becoming aware of evidence the prosecutor considers sufficient.
- (2) For the purposes of subsection (1)(b) —
  - (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor became aware of such evidence shall be conclusive evidence of that fact; and
  - (b) a certificate stating that matter and purporting to be so signed shall be treated as so signed unless the contrary is proved.

*Post-conviction powers***18 Deprivation**

P2006/45/33

- (1) If the person (P) convicted of an offence under section 6 is the owner of an animal in relation to which the offence was committed, the court by or before which P is convicted may, instead of or in addition to dealing with P in any other way, make an order depriving P of ownership of the animal and for its disposal.

This is subject to subsection (9).

- (2) Where the owner of an animal (P) is convicted of an offence under section 19(10) because ownership of the animal is in breach of a disqualification under section 19(3), the court by or before which P is convicted may, instead of or in addition to dealing with P in any other way, make an order depriving P of ownership of the animal and for its disposal.

This is subject to subsection (9).

- (3) Where the animal in respect of which an order under subsection (1) or (2) is made has any dependent offspring, the order may include provision depriving the person to whom it relates of ownership of the offspring and for its disposal.

This is subject to subsection (9).

- (4) Where a court makes an order under subsection (1) or (2), it may —
- (a) appoint a person to carry out, or arrange for the carrying out of, the order;
  - (b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;
  - (c) give directions with respect to the carrying out of the order;
  - (d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order.

- (5) Directions under subsection (4)(c) may —

- (a) specify the manner in which an animal is to be disposed of; or
- (b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (4)(a).

- (6) Where a court decides not to make an order under subsection (1) or (2) in relation to an offender, it shall —

- (a) give its reasons for the decision in open court; and
- (b) cause them to be entered in the register of its proceedings.

- (7) Subsection (6) does not apply where the court makes an order under section 19(1) in relation to the offender.

- (8) In this section, references to disposing of an animal include destroying it.
- (9) When exercising its power under subsection (1), (2) or (3), the court may order payment to P of an amount of compensation it considers suitable if satisfied that such payment would be appropriate in the circumstances.
- (10) Nothing in this section affects section 4 of the *Cruelty to Animals Act 1997* (power of court to deprive owner of animal).

## 19 Disqualification

P2006/45/34 and drafting

- (1) This section does not apply to activities in which a person may engage pursuant to a licence, which are instead subject to potential disqualification under section 12.
- (2) If a person (P) is convicted of an offence under section 6, the court by or before which P is convicted may, instead of or in addition to dealing with P in any other way, make an order (“disqualification order”) disqualifying P under any one or more of subsections (3) to (5) for such period as it thinks fit.
- (3) Disqualification under this subsection disqualifies a person —
  - (a) from owning animals;
  - (b) from keeping animals;
  - (c) from participating in the keeping of animals; and
  - (d) from being party to an arrangement under which the person is entitled to control or influence the way in which animals are kept.
- (4) Disqualification under this subsection disqualifies a person from dealing in animals.
- (5) Disqualification under this subsection disqualifies a person —
  - (a) from transporting animals; and
  - (b) from arranging for the transport of animals.
- (6) Disqualification under subsection (3), (4) or (5) may be imposed in relation to animals generally, animals exceeding a specified number, in relation to animals of one or more kinds or one or more specified animals.
- (7) The court by which a disqualification order under subsection (2) is made may specify a period during which the offender may not make an application under section 25(1) for termination of the order.
- (8) The court by which a disqualification order under subsection (2) is made may —
  - (a) suspend the operation of the order pending an appeal; or
  - (b) where it appears to the court that the offender owns or keeps an animal to which the order applies, suspend the operation of the order, and of any order made under section 20 in connection with

the disqualification, for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the animal.

- (9) Where a court decides not to make a disqualification order under subsection (2) in relation to an offender, it shall —
- (a) give its reasons for the decision in open court; and
  - (b) cause them to be entered in the register of its proceedings.
- (10) A person who breaches a disqualification order under subsection (2) commits an offence.
- Maximum penalty — (summary) — 12 months' custody, or a fine of level 5 on the standard scale or both.
- (11) Nothing in this section affects section 5 of the *Cruelty to Animals Act 1997* (power of court to disqualify persons).

## **20 Seizure of animals in connection with disqualification under section 19**

P2006/45/35

- (1) Where —
- (a) a court makes a disqualification order under section 19(2); and
  - (b) it appears to the court that the person to whom the order applies owns or keeps any animal contrary to the disqualification imposed by the order,
- it may order that all animals the person owns or keeps contrary to the disqualification be taken into possession.
- (2) Where a person (P) is convicted of an offence under section 19(10) because of owning or keeping an animal in breach of disqualification under section 19(3), the court by or before which P is convicted may order that all animals P owns or keeps in breach of the disqualification be taken into possession.
- (3) An order under subsection (1) or (2), so far as relating to any animal owned by the person subject to disqualification, shall have effect as an order for the disposal of the animal.
- (4) Any animal taken into possession in pursuance of an order under subsection (1) or (2) that is not owned by the person subject to disqualification shall be dealt with in such manner as the court may order.
- (5) A court may not make an order for disposal under subsection (4) unless —
- (a) it has given the owner of the animal an opportunity to be heard; or
  - (b) it is satisfied that it is not reasonably practicable to communicate with the owner.
- (6) Where a court makes an order under subsection (4) for the disposal of an animal, the owner may appeal against the order to the High Court.

- (7) In this section, references to disposing of an animal include destroying it.

## 21 Section 20: supplementary

P2006/45/36

- (1) The court by which an order under section 20 is made may —
- (a) appoint a person to carry out, or arrange for the carrying out of, the order;
  - (b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;
  - (c) give directions with respect to the carrying out of the order;
  - (d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;
  - (e) order the person subject to disqualification, or another person, to reimburse the expenses of carrying out the order.
- (2) Directions under subsection (1)(c) may —
- (a) specify the manner in which an animal is to be disposed of; or
  - (b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (1)(a).
- (3) In determining how to exercise its powers under section 20 and this section, the court shall have regard, amongst other things, to —
- (a) the desirability of protecting the value of any animal to which the order applies; and
  - (b) the desirability of avoiding increasing any expenses which a person may be ordered to reimburse.
- (4) In determining how to exercise a power delegated under subsection (2)(b), a person shall have regard, amongst other things, to the things mentioned in subsection (3)(a) and (b).
- (5) If the owner of an animal ordered to be disposed of under section 20 is subject to a liability by virtue of subsection (1)(e), any amount to which the owner is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

## 22 Destruction in the interests of the animal

P2006/45/37

- (1) The court by or before which a person is convicted of an offence under section 6 may order the destruction of an animal in relation to which the offence was committed if it is satisfied, on the basis of evidence given by a veterinary surgeon, that it is appropriate to do so in the interests of the animal.
- (2) A court may not make an order under subsection (1) unless —



- (a) it has given the owner of the animal an opportunity to be heard; or
  - (b) it is satisfied that it is not reasonably practicable to communicate with the owner.
- (3) Where a court makes an order under subsection (1), it may —
- (a) appoint a person to carry out, or arrange for the carrying out of, the order;
  - (b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;
  - (c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);
  - (d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;
  - (e) order the offender or another person to reimburse the expenses of carrying out the order.
- (4) Where a court makes an order under subsection (1), each of the offender and, if different, the owner of the animal may appeal against the order to the High Court.
- (5) Subsection (4) does not apply if the court by which the order is made directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

## **23 Orders under section 18, 20 or 22: pending appeals**

P2006/45/41

- (1) Nothing may be done under an order under section 18, 20 or 22 with respect to an animal unless —
- (a) the period for giving notice of appeal against the order has expired;
  - (b) the period for giving notice of appeal against the conviction on which the order was made has expired; and
  - (c) if the order or conviction is the subject of an appeal, the appeal has been determined or withdrawn.
- (2) Subsection (1) does not apply to an order under section 22(1) if the order is the subject of a direction under subsection (5) of that section.
- (3) Where the effect of an order is suspended under subsection (1) —
- (a) no requirement imposed or directions given in connection with the order shall have effect; but
  - (b) the court may give directions about how any animal to which the order applies is to be dealt with during the suspension.
- (4) Directions under subsection (3)(b) may, in particular —

- (a) authorise the animal to be taken into possession;
  - (b) authorise the removal of the animal to a place of safety;
  - (c) authorise the animal to be cared for either on the premises where it was being kept when it was taken into possession or at some other place;
  - (d) appoint a person to carry out, or arrange for the carrying out, of the directions;
  - (e) require any person who has possession of the animal to deliver it up for the purposes of the directions;
  - (f) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the directions;
  - (g) provide for the recovery of any expenses in relation to removal or care of the animal which are incurred in carrying out the directions.
- (5) Any expenses a person is directed to pay under subsection (4)(g) shall not be regarded for the purposes of the *Summary Jurisdiction Act 1989* as a sum adjudged to be paid by a summary conviction, but shall be recoverable summarily as a civil debt.
- (6) Where the effect of an order under section 18 or 20 is suspended under subsection (1), the person to whom the order relates may not sell or part with any animal to which the order applies.
- (7) Failure to comply with subsection (6) is an offence.
- Maximum penalty — (summary) — 12 months' custody, or a fine of level 4 on the standard scale or both.

## 24 Deprivation orders and seizure orders: offences

P2006/45/50

A person commits an offence if the person intentionally obstructs a person in the carrying out of —

- (a) a deprivation order;
- (b) a seizure order.

Maximum penalty — (summary) — 6 months' custody, or a fine of level 5 on the standard scale or both.

## 25 Termination of disqualification under section 19

P2006/45/43

- (1) A person who is disqualified by virtue of an order under section 19 may apply to the court which made the order for the termination of the order.
- (2) No application under subsection (1) may be made —

- (a) before the end of one year beginning with the date on which the order is made;
  - (b) where a previous application under that subsection has been made in relation to the same order, before the end of one year beginning with the date on which the previous application was determined; or
  - (c) before the end of any period specified under section 19(7) or subsection (5) below in relation to the order.
- (3) On an application under subsection (1), the court may –
- (a) terminate the disqualification;
  - (b) vary the disqualification so as to make it less onerous; or
  - (c) refuse the application.
- (4) When determining an application under subsection (1), the court shall have regard to the character of the applicant, the applicant's conduct since the imposition of the disqualification and any other circumstances of the case.
- (5) Where the court refuses an application under subsection (1), it may specify a period during which the applicant may not make a further application under that subsection in relation to the order concerned.
- (6) The court may order an applicant under subsection (1) to pay all or part of the costs of the application.

## **26 Orders made on conviction for reimbursement of expenses**

P2006/45/44

Where an order is made under section 21(1)(e) or 22(3)(e), the expenses that are required by the order to be reimbursed shall not be regarded for the purposes of the *Summary Jurisdiction Act 1989* as a sum adjudged to be paid by a summary conviction, but shall be recoverable summarily as a civil debt.

## **27 Orders for reimbursement of expenses: right of appeal for non-offenders**

P2006/45/45

- (1) Where a court makes an order to which this section applies, the person against whom the order is made may appeal against the order to the High Court.
- (2) This section applies to –
- (a) an order under section 21(1)(e) against a person other than the person subject to disqualification; and
  - (b) an order under section 22(3)(e) against a person other than the offender.

*General***28 Inspectors**

P2006/45/51 and drafting

- (1) In this Act, “inspector” means a person appointed by the Department to be an inspector for the purposes of that provision.
- (2) The Department may draw up a list of persons whom the Department considers suitable for appointment as an inspector for purposes of this Act.
- (3) A person may be included in a list under subsection (2) as suitable for appointment as an inspector for all the purposes of this Act or only for such one or more of those purposes as may be specified in the list.
- (4) An inspector shall not be liable in any civil or criminal proceedings for anything done in the purported performance of the inspector’s functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (5) Relief from liability of an inspector under subsection (4) shall not affect any liability of any other person in respect of the inspector’s act.
- (6) The Department may provide or procure any training it considers necessary for —
  - (a) a person whom the Department considers suitable for appointment as an inspector; and
  - (b) an inspector.
- (7) The Department shall bear the cost of any training provided or procured under subsection (6).

**29 Conditions for grant of warrant**

P2006/45/52

- (1) This section is satisfied in relation to premises if any of the following 4 conditions is met.
- (2) The first condition is that the whole of the premises is used as a private dwelling and the occupier has been informed of the decision to apply for a warrant.
- (3) The second condition is that any part of the premises is not used as a private dwelling and that each of the following applies to the occupier of the premises (P) —
  - (a) P has been informed of the decision to seek entry to the premises and of the reasons for that decision;
  - (b) P has failed to allow entry to the premises on being requested to do so by an inspector or a constable; and
  - (c) P has been informed of the decision to apply for a warrant.

- (4) The third condition is that —
  - (a) the premises are unoccupied or the occupier is absent; and
  - (b) notice of intention to apply for a warrant has been left in a conspicuous place on the premises.
- (5) The fourth condition is that it is inappropriate to inform the occupier of the decision to apply for a warrant because —
  - (a) doing so would defeat the object of entering the premises; or
  - (b) entry is required as a matter of urgency.

### **30 Powers of entry, inspection and search: supplementary**

P2006/45/53

The Schedule (which makes supplementary provision in relation to powers of entry, inspection and search) has effect.

### **31 Power to stop and detain vehicles**

P2006/45/54

- (1) A constable in uniform or, if accompanied by such a constable, an inspector may stop and detain a vehicle for the purpose of entering and searching it in the exercise of a power conferred by a warrant under section 15(1).
- (2) If accompanied by a constable in uniform, an inspector may stop and detain a vehicle for the purpose of entering it and carrying out an inspection in the exercise of a power conferred —
  - (a) by section 16(2); or
  - (b) by a warrant under section 16(4).
- (3) A vehicle may be detained for as long as is reasonably required to permit a search or inspection to be carried out (including the exercise of any related power under this Act) either at the place where the vehicle was first detained or nearby.

### **32 Power to detain vessels, aircraft and hovercraft**

- (1) Where an inspector is satisfied that this Act or an order made under this Act has not been or is not being complied with on board a vessel in port, then, on the inspector's written representation stating particulars of the non-compliance, the vessel may be detained.
- (2) The inspector shall —
  - (a) forthwith deliver to the master or person in charge of the vessel a copy of the representation;
  - (b) ensure that the fact of the detention of the vessel is within 48 hours of such detention brought before a court of summary jurisdiction

in order for the legality of the detention to be determined, following which determination the court may –

- (i) order the continued detention of the vessel for such time as the court specifies or until the happening of a specified event; or
- (ii) order the release of the vessel and, only if the court determines that there was no reasonable basis for the detention, order the payment of compensation in the manner described in subsection (3).

(3) Where –

- (a) the fact of the detention of a vessel is not brought before a court of summary jurisdiction within the time required by subsection (2)(b); and
- (b) this is due to the failure of the inspector to take the necessary steps to ensure the fact was so brought,

the vessel shall be immediately released from detention and the Department shall compensate the master or person in charge of the vessel for any loss of earnings incurred as a result of the detention.

(4) For the purposes of this section, “ship” as it appears in section 74 (detention of ships) of the *Merchant Shipping Registration Act 1991* includes “vessel” as used herein.

(5) In respect of –

- (a) aircraft;
- (b) hovercraft,

the Department may by regulations make provision equivalent to that made by section 74 of the *Merchant Shipping Registration Act 1991* in respect of ships.

Tynwald procedure – approval required.

### 33 Obtaining of documents in connection with carrying out orders etc

P2006/45/56

(1) Where –

- (a) an order under section 18(1) or (2), 20(1) or (2) or 22(1) has effect; and
- (b) the owner (P) of an animal to which the order relates has in P’s possession, or under P’s control, documents which are relevant to the carrying out of the order or any directions given in connection with it,

the owner shall, if so required by a person authorised to carry out the order, deliver the documents to that person as soon as practicable and in

any event before the end of the period of 10 days beginning with the date on which P is notified of the requirement.

- (2) Where —
- (a) directions under section 23(3)(b) have effect; and
  - (b) the owner (P) of an animal to which the directions relate has in P's possession, or under P's control, documents which are relevant to the carrying out of the directions,

P shall, if so required by a person authorised to carry out the directions, deliver the documents to that person as soon as practicable and in any event before the end of the period of 10 days beginning with the date on which P is notified of the requirement.

- (3) A person who fails without reasonable excuse to comply with subsection (1) or (2) commits an offence.

Maximum penalty — (summary) — 12 months' custody, or a fine of level 4 on the standard scale or both.

### 34 Scientific research

P2006/45/58

- (1) Nothing in this Act applies to anything lawfully done in the course of a regulated procedure within the meaning of section 12 (regulated procedures) of the *Cruelty to Animals Act 1997*.
- (2) No power of entry, inspection or search conferred by or under this Act, except for any such power conferred by section 16, may be exercised in relation to a place which is specified in a licence granted under section 14 (personal licences) or 15 (project licences) of the *Cruelty to Animals Act 1997*.
- (3) Section 6 does not apply in relation to an animal which —
- (a) is being kept at a place specified in a licence granted under section 14 or 15 of the *Cruelty to Animals Act 1997*; and
  - (b) is being so kept for the purposes of, or in connection with, an activity mentioned in section 12 of that Act that is pursued at that place in the course of carrying on the undertaking authorised by the licence.

### 35 Fishing

P2006/45/59

Nothing in this Act applies in relation to anything which occurs in the normal course of fishing.

## PART 3 – AMENDMENTS AND REPEALS

### 36 Riding Establishments (Inspection) Act 1968 amended

The *Riding Establishments (Inspection) Act 1968* is amended as follows –

- (a) in section 1(2) (licensing of riding establishments), for the words after “disqualified under”, substitute –

**23** –

- (a) section 5 of the *Cruelty to Animals Act 1997*;
- (b) section 19 the *Animal Welfare Act 2023* (disqualification) or any regulations made under section 11 (regulations to promote welfare) of that Act;
- (c) any legislation applied to the Island under section 9 (application of legislation relating to the welfare of animals) of the *Animal Welfare Act 2023* or regulations made under section 10 (implementation by regulations of legislation relating to the welfare of animals) of that Act. **22**;

- (b) after section 1(2), insert –

**24** (2A) For the purposes of subsection (2), “disqualified” includes being disqualified from owning, keeping or having custody of animals or participating in the keeping of animals, being party to an arrangement under which the person is entitled to control or influence the way in which animals are kept and keeping a boarding establishment for animals. **22**;

- (c) after section 1(7), insert –

**25** (8) The Department may by order amend the legislation specified in subsection (2).

Tynwald procedure – negative. **22**; and

- (d) in section 4(3) (penalties), for “under this Act or of any offence under section 6 of the *Cruelty to Animals Act 1997*,” substitute –

**26** under –

- (a) this Act;
- (b) Part I of the *Cruelty to Animals Act 1997*;
- (c) Part 2 of the *Animal Welfare Act 2023* or any regulations made under section 11 (regulations to promote welfare) of that Act; or
- (d) any legislation applied to the Island under section 9 (application of legislation relating to the welfare of animals) of the *Animal Welfare Act 2023* or regulations made under section 10 (implementation by



regulations of legislation relating to the welfare of animals) of that Act, **22**.

### 37 **Animal Boarding Establishments (Isle of Man) Act 1973 amended**

The *Animal Boarding Establishments (Isle of Man) Act 1973* is amended as follows —

- (a) for section 1(2) (licensing of boarding establishments for animals), substitute —

**23**(2) Subject to the provisions of this section the Department may, on application being made to them for that purpose by a person who is not for the time being disqualified under —

- (a) the animal welfare legislation; or  
(b) the UK animal welfare legislation,

and on payment of such fee as may be prescribed under Part 5, Division 4 (general fee power) of the *Interpretation Act 2015*, grant a licence to that person to keep a boarding establishment for animals at such premises in the Isle of Man as may be specified in the application and subject to compliance with such conditions as may be specified in the licence.

(2A) For the purposes of subsection (2), “disqualified” includes being disqualified from owing, keeping or having custody of animals or participating in the keeping of animals, being party to an arrangement under which the person is entitled to control or influence the way in which animals are kept and keeping a boarding establishment for animals. **24**;

- (b) in section 3(3) (offences and disqualifications), for “Where a person is convicted of any offence under this Act or of any offence under Part I of the *Cruelty to Animals Act 1997*”, substitute —

**25** Where a person is convicted of any offence or receives an order for disqualification or for the seizure of an animal under the animal welfare legislation **26**; and

- (c) in section 5 (interpretation) —

- (i) in subsection (2), after the definition of “animal”, insert —

**27** “animal welfare legislation” means —

- (a) this Act;  
(b) Part I of the *Cruelty to Animals Act 1997*;  
(c) Part 2 of the *Animal Welfare Act 2023* and any regulations made under section 11 (regulations to promote welfare) of that Act; and  
(d) any legislation applied to the Island under section 9 (application of legislation relating to the welfare of animals) of the *Animal Welfare Act 2023* and regulations made under

section 10 (implementation by regulations of legislation relating to the welfare of animals) of that Act. **22**;

- (ii) in subsection (2), after the definitions of “Supplementary Veterinary Register” and “Register of Veterinary Surgeons”, insert —

**23** “UK animal welfare legislation” means UK legislation (within the meaning of section 3(1) of the *Animal Welfare Act 2023*) by which a person may be disqualified from keeping or having custody of an animal; **22**; and

- (iii) after subsection (2), insert —

**24** (3) The Department may by order amend the definition of “animal welfare legislation” and “UK animal welfare legislation” in subsection (2).

Tynwald procedure – negative. **22**.

### 38 Breeding of Dogs and Cats Act 1981 amended

The *Breeding of Dogs and Cats Act 1981* is amended as follows —

- (a) in section 1(2) (licensing of breeding establishments) —
- (i) in paragraph (c), for “1955”, substitute “1997; and
- (ii) after paragraph (c), insert —
- 25** (ca) under section 19 (disqualification) of the *Animal Welfare Act 2023* or any regulations made under section 11 (regulations to promote welfare) of that Act; or
- (cb) under any animal welfare legislation applied to the Island under section 9 (application of legislation relating to the welfare of animals) of the *Animal Welfare Act 2023* or regulations made under section 10 (implementation by regulations of legislation relating to the welfare of animals) of that Act; or **22**; and
- (iii) omit paragraphs (d) to (h); and
- (iv) for paragraph (i), substitute —
- 26** (i) under UK legislation (within the meaning of section 3(1) of the *Animal Welfare Act 2023*), **22**;
- (b) in section 3(3) (offences and disqualifications), for “any offence under this Act or of any offence under the *Cruelty to Animals Act 1925* or of any offence under the Acts mentioned at section 1(2)(b) or (c)”, substitute —
- 27** any offence or receives an order for disqualification or for the seizure of an animal under this Act or the *Cruelty to Animals Act 1997* or of any offence under the Acts mentioned at section 1(2)(b), (c), (ca) and (cb) **22**; and

- (c) in section 3(4), for “any Act mentioned in section 1(2), at paragraphs (d) to (h),”, substitute **“any Act to which section 1(2)(i) applies”**.

### 39 Animal Health Act 1996 amended

The following sections of the *Animal Health Act 1996* are amended or repealed as follows —

- (a) section 28 (prevention of unnecessary pain and distress for livestock on agricultural land, etc) is repealed;
- (b) section 28A (power of court to disqualify persons) is repealed;
- (c) section 29 (welfare of animals) and Schedule 2 (specific matters with respect to which provision may be made in orders under section 29) are repealed;
- (d) section 30 (codes of recommendations for the welfare of livestock on agricultural land, etc) is repealed;
- (e) section 32 (power of entry, inspection, etc) is repealed; and
- (f) in section 40 (power to detain vessels and aircraft) —
- (i) in the section heading, for “and aircraft”, substitute **“aircraft and hovercraft”**; and
- (ii) in subsection (4), for “aircraft”, substitute **“aircraft or hovercraft”**.

### 40 Cruelty to Animals Act 1997 amended

The *Cruelty to Animals Act 1997* is amended as follows —

- (a) in section 1 (offences of cruelty), for “shall be guilty of an offence of cruelty within the meaning of this Part and shall, subject to section 2(2), be liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.”, substitute —

**“shall, subject to section 2(2), be guilty of an offence within the meaning of this Part.**

**Maximum penalty —**

- (a) (on information) — 5 years’ custody, or a fine or both;
- (b) (summary) — 12 months’ custody, or a fine or both. **”**;
- (b) in section 6 (breach of disqualification order), for “is guilty of an offence and shall be liable on summary conviction to custody for a term not exceeding 3 months or to a fine not exceeding, £2,500, or to both”, substitute —

**“is guilty of an offence.**

**Maximum penalty — (summary) — 12 months’ custody, or a fine not exceeding level 5 on the standard scale or both. **”**;**

- (c) in section 7(3) (animals in pinfolds), for “is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.”, substitute —
- █ is guilty of an offence.
- Maximum penalty — (summary) — 12 months’ custody, or a fine not exceeding level 4 on the standard scale or both. █;
- (d) in section 8 (use of dogs for purposes of draught), for “is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.”, substitute —
- █ is guilty of an offence.
- Maximum penalty — (summary) — 12 months’ custody, or a fine not exceeding level 4 on the standard scale or both. █;
- (e) in paragraph 3(4) of Schedule 4 (enforcement of Act – powers of entry), for “be guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.”, substitute —
- █ be guilty of an offence.
- Maximum penalty — (summary) — 12 months’ custody, or a fine not exceeding level 4 on the standard scale or both. █;
- (f) in paragraph 4(4) of Schedule 4 (enforcement of Act – powers of entry), for “be guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.”, substitute —
- █ be guilty of an offence.
- Maximum penalty — (summary) — 12 months’ custody, or a fine not exceeding level 4 on the standard scale or both. █; and
- (g) in paragraph 7(1) of Schedule 4 (enforcement of Act – summonses to employers), for “be guilty of an offence and shall be liable —
- (i) to a fine not exceeding £500;
- (ii) to pay the costs of any adjournment resulting from his failure to comply with the summons.”, substitute —
- █ be liable to pay the costs of any adjournment resulting from his failure to comply with the summons and guilty of an offence.
- Maximum penalty — (summary) — a fine not exceeding level 4 on the standard scale. █.

#### 41 Police Powers and Procedures Act 1998 amended

After paragraph 13 of Part I of Schedule 1A to the *Police Powers and Procedures Act 1998* (powers of seizure Part 1 — powers to which section 26A, 26E(5)(b), 26J(10)(b) and 26M(1)(a) applies), insert —

**14 Police Powers and Procedures Act 1998**

The power of seizure conferred by paragraph 7(3) of the Schedule to the *Animal Welfare Act 2023*.<sup>22</sup>

**42 Cross Compliance Standards for the Countryside Care Scheme 2009**

In statutory management requirement 14 of the Cross Compliance Standards for the Countryside Care Scheme 2009<sup>3</sup>, after “[as amended]”, insert <sup>23</sup> and the Animal Welfare Act 2023<sup>22</sup>.

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<sup>3</sup> GC 62/08



## SCHEDULE

## POWERS OF ENTRY, INSPECTION AND SEARCH: SUPPLEMENTARY

[section 30]

*Safeguards etc. in connection with powers of entry conferred by warrant*  
P2006/45/Sch2/1

## 1

- (1) Sections 18 (search warrants – safeguards) and 19 (execution of warrants) of the *Police Powers and Procedures Act 1998* shall have effect in relation to the issue of a warrant under section 15(1) to an inspector as they have effect in relation to the issue of a warrant under that provision to a constable.
- (2) In their application in relation to the issue of a warrant under section 15(1), sections 18 and 19 of that Act shall have effect with the following modifications.
- (3) In section 18 –
  - (a) in subsection (2), omit the words from the end of paragraph (a)(ii) to the end of paragraph (b);
  - (b) omit subsections (2A) and (5A);
  - (c) in subsection (5), omit the words from “unless” to the end;
  - (d) in subsection (6)(a), omit the words from the end of sub-paragraph (iii) to the end of sub-paragraph (iv); and
  - (e) in subsection (7), omit the words from “(see ” to the end.
- (4) In section 19 –
  - (a) omit subsections (3A) and (3B); and
  - (b) in subsection (9), omit the words after paragraph (b).

*Power to require assistance*

P2006/45/Sch2/7

## 2

- (1) This paragraph applies to a power of entry conferred by –
  - (a) section 16(2); or
  - (b) a warrant under section 16(4) or 15(1).
- (2) Where a person (P) enters premises in the exercise of a power of entry to which this paragraph applies, P may require any qualifying person on the premises to give P such assistance as P may reasonably require for the purpose for which entry is made.

- (3) The reference in sub-paragraph (2) to a qualifying person is to —
- (a) the occupier of the premises;
  - (b) any person who appears to the person exercising the power to be responsible for animals on the premises;
  - (c) any person who appears to the person exercising the power to be under the direction or control of a person mentioned in paragraph (a) or (b).

*Power to take equipment onto premises*

P2006/45/Sch2/8

**3 (0)**

In exercising a power to which paragraph 2 applies, a person may take with him or her such equipment and materials as he or she thinks appropriate.

*Duty to leave premises secured*

P2006/45/Sch2/9

**4 (0)**

If, in the exercise of a power of entry to which paragraph 2 applies, a person (P) enters premises which are unoccupied, P shall leave them as effectively secured against entry as P found them.

*Functions in connection with inspection and search*

P2006/45/Sch2/10-14

**5 (0)**

- (1) This paragraph applies to —
- (a) a power of inspection conferred by section 16(1); and
  - (b) a power of search conferred by a warrant under section 15(1).
- (2) A person exercising a power to which this paragraph applies may —
- (a) inspect an animal found on the premises;
  - (b) inspect any other thing found on the premises, including a document or record (in whatever form it is held);
  - (c) carry out a measurement or test (including a measurement or test of an animal found on the premises);
  - (d) take a sample (including a sample from an animal found on the premises or from any substance on the premises which appears to be intended for use as food for such an animal);
  - (e) mark an animal found on the premises for identification purposes;
  - (f) remove a carcass found on the premises for the purpose of carrying out a post-mortem examination on it;



- (g) take copies of a document or record found on the premises (in whatever form it is held);
- (h) require information stored in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form;
- (i) take a photograph of anything on the premises;
- (j) seize and detain or remove anything which the person exercising the power reasonably believes to be evidence of any non-compliance, or of the commission of any offence, relevant to the purpose for which the inspection or search is made.

**6 (0)**

A person (P) who takes a sample from an animal pursuant to paragraph 5(2)(d) shall give a part of the sample, or a similar sample, to any person (B) appearing to be responsible for the animal, if, before the sample is taken, P is requested to do so by B.

**7 (0)**

- (1) Paragraph 5(2)(j) does not include power to seize an item which the person exercising the power has reasonable grounds for believing to be subject to legal privilege (within the meaning of section 13 of the Police Powers and Procedures Act 1998 (meaning of “items subject to legal privilege”)).
- (2) A person (P) who seizes anything in exercise of the power under paragraph 5(2)(j) shall on request provide a record of the thing seized to a person showing himself or herself —
  - (a) to be the occupier of premises on which it was seized; or
  - (b) to have had possession or control of it immediately before its seizure.
- (3) Subject to sub-paragraph (4), anything which has been seized in the exercise of a power under paragraph 5(2)(j) may be retained so long as is necessary in all the circumstances and in particular —
  - (a) for use as evidence at a trial for a relevant offence; or
  - (b) for forensic examination or for investigation in connection with a relevant offence.
- (4) Nothing may be retained for either of the purposes mentioned in sub-paragraph (3) if a photograph or a copy would be sufficient for that purpose.

**8 (0)**

As soon as reasonably practicable after having exercised a power to which paragraph 5 applies, the person who exercised the power shall —

- (a) prepare a written report of the inspection or search; and
- (b) if requested to do so by the occupier of the premises, give the occupier a copy of the report.

**9 (0)**

A person exercising a power of search conferred by a warrant under section 15(1) may (if necessary) use reasonable force in the exercise of powers under paragraph 5 in connection with the execution of the warrant.

*Offences*

P2006/45/Sch2/16

**10 (0)**

A person commits an offence if the person —

- (a) intentionally obstructs a person in the lawful exercise of a power to which paragraph 2 or 5 applies;
- (b) intentionally obstructs a person in the lawful exercise of a power conferred by this Schedule;
- (c) fails without reasonable excuse to give any assistance which the person is required to give under paragraph 2.

Maximum penalty — (summary) — 12 months' custody, or a fine of level 4 on the standard scale or both.

## ENDNOTES

### Table of Endnote References