

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 16 – Animals to which this Part applies

92. This section provides the definition of “animal” for the purposes of Part 2 of the Act, and thereby defines the living species which enjoy the protection afforded by Part 2. This is necessary at the outset as the definition of the term “animal” can potentially be extremely wide. For example, a zoologist might classify a microbe as an “animal”. For the purposes of this Part the term “animal” means a vertebrate other than man. Therefore insects, for example, are not “animals” for the purposes of this Part.
93. It should be noted that, by virtue of section 47, Part 2 of the Act does not apply in relation to anything which occurs by virtue of, or in accordance with, the Animals (Scientific Procedures) Act 1986 (the subject matter of which is reserved to the UK Parliament), or to anything which occurs in the normal course of fishing.
94. Subsection (2) provides that the provisions in Part 2 do not apply to an animal whilst it is in its foetal or embryonic form.
95. Subsection (3) provides that the Scottish Ministers will be able to make regulations to change this definition so that it can be extended to include invertebrates of any description or an animal at an earlier stage of its development.
96. Subsection (4) provides that the Scottish Ministers can only invoke the power to extend the definition once satisfied, on the basis of scientific evidence, that other creatures are capable of experiencing pain or suffering. This approach will enable the definition to be amended in line with scientific developments and knowledge, and without recourse to primary legislation.
97. Subsection (5) imposes a duty on the Scottish Ministers to consult interested persons before introducing regulations to amend the definition of animal under this section.