

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 32 – Taking possession of animals

154. This section makes provision as to the steps which an inspector or constable may take where they find a protected animal which appears to be suffering. Subsection (1) allows an inspector or constable who finds a protected animal suffering to take steps that need to be taken immediately to alleviate the animal's suffering. Subsection (2) specifies that subsection (1) does not authorise the destruction of a protected animal, which is dealt with in section 35. See section 17 for the definition of "protected animal" and section 49 for the definition of "inspector". Relevant powers of entry are conferred by schedule 1.
155. Subsection (3) gives an inspector or constable the right to take possession of a protected animal if a veterinary surgeon certifies that the animal is suffering or likely to suffer. In order to reach an opinion in this regard, the veterinary surgeon may examine and take samples from the animal (subsection (9)). Subsection (4) allows an inspector or constable to take this step without veterinary certification if it appears that the animal is suffering or likely to suffer and it is reasonable not to seek the assistance of, or wait for, a vet. This would apply to circumstances when the action required is urgent, such as discovering an animal in danger of dehydration in a vehicle in direct sunshine. Subsection (5) provides that an inspector may also take into possession any dependent offspring. For example if it appears that a bitch with a young litter of puppies is suffering, then the bitch and the puppies could be taken into possession to ensure that the puppies' welfare needs can continue to be met.
156. Subsection (6) provides that where an inspector or constable has taken possession of an animal, an inspector or constable may remove it, or arrange for it to be removed, to a place of safety (such as an animal welfare centre). Alternatively, they may care for the animal at the place where it was found (in which case they can make use of any equipment taken or found at the place, see subsection (8)). Subsection (7) allows that where a constable or inspector takes possession of an animal, the inspector or constable may use a mark, microchip or other method to identify the animal.
157. Subsection (11) provides that any reasonable expenses incurred by an inspector or constable in taking steps to alleviate suffering or taking possession of an animal under this section can be recovered from the owner or other person responsible for that animal.
158. **Schedule 1** paragraph 15(1)(a) makes it an offence for a person to intentionally obstruct an inspector or constable from using any of the powers conferred on him by this section.