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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 177**

**ANIMALS**

**The Scottish Animal Welfare Commission Regulations 2020**

*Made* - - - - - *16th June 2020*

*Coming into force* - - - - - *26th June 2020*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 36(1) of the Animal Health and Welfare (Scotland) Act 2006<sup>(1)</sup>, and all other powers enabling them to do so.

In accordance with section 51(3) of that Act<sup>(2)</sup>, a draft of this instrument has been laid and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Scottish Animal Welfare Commission Regulations 2020.

(2) These regulations come into force on 26 June 2020.

**Interpretation**

2. In these regulations “financial year” means—

- (a) the period beginning with the day on which these Regulations come into force and ending on 31 March the following year, and
- (b) each subsequent period of a year ending on 31 March.

**The Scottish Animal Welfare Commission**

3.—(1) The Scottish Animal Welfare Commission is established.

(2) In these Regulations, the Scottish Animal Welfare Commission is referred to as “the Commission”.

**Exclusion of Crown status**

4. The Commission is not to be regarded—

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(1) 2006 asp 11

(2) Section 51(3) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

- (a) as the servant or agent of the Crown, or
- (b) enjoying any status, privilege or immunity of the Crown.

### **Functions of the Commission**

5.—(1) In addition to any functions conferred on the Commission by virtue of or under any enactment, the function of the Commission is to provide advice on any matters concerning the welfare of protected animals to—

- (a) the Scottish Ministers, and
  - (b) such other persons as the Scottish Ministers may direct.
- (2) The Commission is to provide advice on any matters under paragraph (1)—
- (a) which are referred to it by the Scottish Ministers or by such persons as the Scottish Ministers may direct, or
  - (b) on which the Commission considers it should offer its advice.
- (3) The Commission must publish any advice it provides.
- (4) A direction under paragraph (1)(b) must—
- (a) be in writing, and
  - (b) be published (as soon as practicable after it is communicated to the Commission).
- (5) The Scottish Ministers may revise or revoke a direction under paragraph (1)(b).
- (6) Paragraph (4)(b) applies to the revision or revocation of a direction under paragraph (1)(b) as it applies to such a direction.

### **General powers**

6. The Commission may do anything which appears to it—
- (a) to be necessary or expedient for the purpose of, or in connection with, the performance of its functions, or
  - (b) to be otherwise conducive to the performance of its functions.

### **Appointment of members**

- 7.—(1) The Commission is to consist of—
- (a) a member appointed by the Scottish Ministers to chair the Commission, and
  - (b) at least 8 but no more than 11 other members appointed by the Scottish Ministers.
- (2) A member is appointed for such period not exceeding 4 years as the Scottish Ministers determine.
- (3) The Scottish Ministers may reappoint as a member of the Commission a person who is, or has been, a member.
- (4) The Scottish Ministers may not appoint a person as a member of the Commission if the person is—
- (a) a member of the Scottish Parliament,
  - (b) a member of the House of Commons,
  - (c) a councillor of a local authority.

### **Expenses and resources**

8.—(1) Members of the Commission, and any members of committees and sub-committees established by the Commission under regulation 10 who are not members of the Commission, are entitled to such expenses as the Scottish Ministers may determine.

(2) The Scottish Ministers are to pay any such expenses.

(3) The Scottish Ministers are to provide the Commission with such staff and other resources as the Commission requires to carry out its functions.

### **Early termination of membership**

9.—(1) A member of the Commission may resign by giving notice in writing to the Scottish Ministers.

(2) The Scottish Ministers may, by giving notice to the member in writing, remove a member of the Commission if the Scottish Ministers consider that the member is—

- (a) unable to perform the functions of a member, or
- (b) unsuitable to continue as a member.

(3) A person's membership of the Commission ends if the person becomes—

- (a) a member of the Scottish Parliament,
- (b) a member of the House of Commons,
- (c) a councillor of a local authority.

### **Committees**

10.—(1) The Commission may establish committees and sub-committees.

(2) The membership of a committee or a sub-committee may include persons who are not members of the Commission but those persons are not entitled to vote at meetings.

### **Regulation of procedure**

11. The Commission may regulate its own procedure (including quorum) and that of any committee or sub-committees.

### **Validity of things done**

12. The validity of anything done by the Commission or its committees or sub-committees is not affected by—

- (a) a vacancy in membership,
- (b) a defect in the appointment of a member,
- (c) the disqualification of a person as a member after appointment.

### **Work plan**

13.—(1) The Commission must prepare a work plan for each financial year setting out how it intends to perform its functions under regulation 5(1) during the financial year to which the plan relates.

(2) The Commission must submit—

- (a) the first plan to the Scottish Ministers as soon as practicable after these Regulations come into force,

- (b) a new plan to the Scottish Ministers no later than 2 months before the start of the period to which the plan relates.
- (3) The Scottish Ministers may—
  - (a) approve a plan without modification,
  - (b) approve a plan with modifications agreed with the Commission, or
  - (c) reject a plan.
- (4) If the Scottish Ministers reject a plan, the Commission must submit a revised plan to the Scottish Ministers within such period as the Scottish Ministers direct.
- (5) Where the Scottish Ministers approve a plan under paragraph (3)(a) or (b), the Commission must publish it as approved in such manner as it considers appropriate.
- (6) The Commission—
  - (a) may revise a plan from time to time,
  - (b) must submit any revised plan to the Scottish Ministers.
- (7) If any matters are referred to the Commission under regulation 5(2)(a), the Commission must—
  - (a) include the matters in its plan submitted under paragraph (2), or
  - (b) revise its plan to take account of the matters.
- (8) Paragraphs (3) to (5) apply to a revised plan submitted under paragraph (4), (6)(b) or (7)(b) as they apply to a plan submitted under paragraph (2).

### **Annual report**

- 14.**—(1) The Commission must, as soon as practicable after the end of each financial year—
- (a) prepare and publish a report on the exercise of its functions during that year,
  - (b) send a copy of the report to the Scottish Ministers.
- (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.
- (3) It is for the Commission to determine the form and content of each report.

St Andrew's House,  
Edinburgh  
16th June 2020

*MAIRI GOUGEON*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations establish the Scottish Animal Welfare Commission (“the Commission”) under section 36 of the Animal Health and Welfare (Scotland) Act 2006.

Regulation 3 establishes the Commission and regulation 4 provides that the Commission does not have Crown status.

Regulation 5 provides for the Commission’s functions. Regulation 6 gives the Commission further general powers which it may exercise for the purposes of or in connection with the exercise of its functions.

Regulation 7 provides for the appointment of members by the Scottish Ministers, including the number of members that may be appointed and the maximum length that those appointments may be. It also provides that members may be reappointed, and for circumstances where a member may not be appointed.

Regulation 8 provides that members of the Commission, and any members of committees or sub-committees are entitled to expenses from the Scottish Ministers. The Scottish Ministers are also to provide the Commission with staff and other resources it may require.

Regulation 9 allows a member to resign by giving notice in writing to the Scottish Ministers. It also provides for circumstances where the Scottish Ministers may remove a member, and for circumstances where a member’s appointment automatically ends.

Regulation 10 allows the Commission to establish committees and sub-committees.

Regulation 11 allows the Commission to regulate its own procedure and that of its committees and sub-committees.

Regulation 12 provides that the validity of anything done by the Commission or its committees or sub-committees is not affected by any vacancies in membership, or any defects in appointments or disqualifications from membership.

Regulation 13 requires the Commission to prepare a work plan for each financial year which must be submitted to the Scottish Ministers for approval. If the Scottish Ministers reject the plan, the Commission must submit a revised plan for approval. Where a plan is approved with or without modifications, the Commission must publish it. The Commission may revise a plan, but any revised plan must also be approved by Scottish Ministers and then published.

Regulation 14 requires the Commission to prepare and publish an annual report on the exercise of its functions. The Scottish Ministers must lay a copy of the report before the Scottish Parliament.