



Animal Health Act 1981

1981 CHAPTER 22

PART II

DISEASE

Infection

17 Powers as to infected places and areas.

- (1) The Ministers may make such orders as they think fit for prescribing the cases in which places and areas are to be declared to be infected with a disease and the authority, mode, and conditions by, in, and on which declarations in that behalf are to be made, and their effect and consequences, and their duration and discontinuance, and other connected matters.
- (2) Every place or area so declared infected shall be an infected place or area for the purposes of this Act.
- (3) A notice served in pursuance of directions of the Minister or of a local authority by virtue of an order made under this section shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter on which the notice proceeds.
- (4)^{F1}

Textual Amendments

F1 S. 17(4) repealed by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), s. 4, [Sch. 2](#)

*Changes to legislation: There are currently no known outstanding effects for the
 Animal Health Act 1981, Cross Heading: Infection. (See end of Document for details)*

18 Other provisions as to infected places and areas.

- (1) Notwithstanding anything in this Act, where the Minister, on inquiry, and after communication with the local authority, is satisfied that a declaration of a place being an infected place has been made in error—
- (a) respecting the existence or past existence of disease, or
 - (b) respecting the limits of a place, or
 - (c) respecting any other matter of fact on which the declaration proceeded,
- the Minister may by order cancel the declaration as regards the infected place, or as regards any part of it, as he thinks fit.
- (2) Where, in accordance with the provisions of this Act—
- (a) a place or an area or a portion of an area is declared free from a disease, or
 - (b) a declaration of a place being an infected place is cancelled as regards the place or as regards any part of it,
- then, from the time specified in that behalf by the Minister, or a local authority, as the case may be, the place, or area or that portion of the area or that part of the place, shall cease to be, or to be in, an infected place or area.
- (3) An order of the Minister—
- (a) declaring a place to be an infected place or area, or
 - (b) declaring a place or area, or a portion of an area, to be free from disease, or
 - (c) cancelling a declaration,
- shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter on which the order proceeds.

19 Destruction of foxes etc. on rabies infection.

- (1) An order under section 17 above prescribing the cases in which areas are to be declared to be infected with rabies may include provision for the destruction in an area declared to be so infected, by persons authorised in accordance with the order, of foxes and such other wild mammals as may be prescribed by the order (not in either case being animals held in captivity).
- (2) An order made by virtue of subsection (1) above may provide for—
- (a) authorising any person to enter any land (other than a dwellinghouse) for the purpose of carrying out, or of deciding whether to carry out, the destruction there of animals in accordance with the order;
 - (b) authorising the erection of fences or other obstacles to restrict the movement of animals into and out of an area where destruction is carried out;
 - (c) regulating the ownership and disposal of the carcasses of animals destroyed in accordance with the order;
 - (d) prohibiting any person obstructing the destruction of animals in accordance with the order and from interfering with the carcasses of animals destroyed;
 - (e) authorising the use of methods of destruction which would otherwise be unlawful.
- (3) An order made by virtue of subsection (1) shall include provision as to the steps to be taken to inform the occupier of any land where it is proposed that animals should be destroyed, and other persons who may be there, of the proposal and of the methods of destruction to be used.

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20 Additional provisions under s. 17 on rabies infection.

- (1) An order under section 17 above prescribing the cases in which areas are to be declared to be infected with rabies may include provision for—
 - (a) requiring notice to be given, in such circumstances as may be prescribed by the order, of the death in an area declared to be so infected of such domestic or wild mammals as may be prescribed;
 - (b) regulating the ownership and disposal of the carcasses of animals whose deaths are required to be notified by virtue of paragraph (a) above;
 - (c) requiring and regulating the vaccination, confinement and control in such area of such domestic mammals and mammals held in captivity as may be prescribed by the order;
 - (d) authorising the seizure and detention and the disposal or destruction of any animal in respect of which any provision made by virtue of paragraph (c) above is not complied with;
 - (e) authorising any person to enter any land for the purpose of seizing or destroying any animal in pursuance of the order.
- (2) An order under section 17 prescribing the cases in which areas are to be declared to be infected with rabies may provide—
 - (a) for the division of an area into zones (whether defined by reference to distance from the places within the area where diseased animals have been found or otherwise); and
 - (b) for the consequences which may follow a declaration to be different for different zones.

21 Destruction of wild life on infection other than rabies.

- (1) This section—
 - (a) applies to any disease other than rabies which is for the time being a disease for the purposes of section 1(a) above; and
 - (b) is without prejudice to any powers conferred by other provisions of this Act on the Minister, the appropriate Minister and the Ministers.
- (2) The Minister, if satisfied in the case of any area—
 - (a) that there exists among the wild members of one or more species in the area a disease to which this section applies which has been or is being transmitted from members of that or those species to animals of any kind in the area, and
 - (b) that destruction of wild members of that or those species in that area is necessary in order to eliminate, or substantially reduce the incidence of, that disease in animals of any kind in the area,may, subject to the following provisions of this section, by order provide for the destruction of wild members of that or those species in that area.
- (3) Before making an order under this section the Minister shall consult with the [F² appropriate conservation body || F³ for the area to which it will apply], and every order so made shall specify—
 - (a) the area to which it applies;
 - (b) the disease to which it applies; and
 - (c) the one or more species to which it relates.

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- (4) An order under this section providing for the destruction of wild members of one or more species in any area may provide for authorising the use for that purpose of one or more methods of destruction that would otherwise be unlawful.

The order shall not authorise such use unless the Minister is satisfied that use of the method or methods in question is the most appropriate way of carrying out that destruction, having regard to all relevant considerations and, in particular, the need to avoid causing unnecessary suffering to wild members of the species in question.

- (5) An order under this section may include provision—
- (a) for ensuring that destruction of wild members of any species to which the order relates is properly and effectively carried out, and in particular—
 - (i) for preventing persons from taking into captivity, harbouring, concealing or otherwise protecting wild members of any such species with intent to prevent their destruction, or
 - (ii) in any other way obstructing or interfering with anything which has been, is being or is to be done or used in connection with that destruction.
 - (b) for regulating the ownership and disposal of the carcasses of members of any such species destroyed in the area to which the order relates.

- (6) Before commencing the destruction of wild members of a species on any land within an area to which an order under this section applies the Minister shall take all reasonable steps to inform—
- (a) the occupier of the land, and
 - (b) any other person who may be there,
- of his intention to carry out that destruction and of the methods of destruction to be used.

It shall be the Minister's duty to ensure that destruction is carried out on any such land in as safe a manner as is possible in all the circumstances.

- (7) Where an order under this section is in force, the Minister shall have power to take such measures (including the erection of fences or other obstacles) as he considers appropriate—
- (a) for preventing the movement of living creatures into or out of the area or any part of the area to which the order applies while destruction of wild members of any species to which the order relates is being carried out in the area; and
 - (b) where destruction of wild members of any such species has been or is to be carried out in any part of that area, for preventing the recolonisation of that part by members of that species for as long as he considers necessary to prevent reappearance among them of the disease to which the order applies.
- (8) As soon as may be after the Minister is satisfied, in the case of any land, that any measures affecting that land which have been taken in connection with an order under this section are no longer necessary, he shall—
- (a) remove from the land anything placed or erected on it; and
 - (b) take such other steps as are reasonably practicable to reinstate the land.

- (9) In this section and section 22 below—
 “animals” includes horses,

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[^{F4}[^{F5}“appropriate conservation body” means Natural England,] [^{F6} Scottish Natural Heritage] or [^{F7}the Natural Resources Body for Wales],]

“species” means any species of bird or mammal, except man,
and references to wild members of any species in an area are references to members of the species in the area that are neither domesticated nor held in captivity.

- (10) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F2** Words in s. 21(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 68\(2\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F3** Words in s. 21(3) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), [Sch. 9 para. 10\(2\)\(a\)](#); S.I. 1991/685, [art. 3](#)
- F4** Definition in s. 21(9) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), [Sch. 9 para. 10\(2\)\(b\)](#); S.I. 1991/685, [art. 3](#)
- F5** Words in s. 21(9) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 68\(3\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F6** Words in s. 21(9) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4, [Sch. 2 para. 7\(2\)](#); S.I. 1991/2633, [art. 4](#)
- F7** Words in s. 21(9) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 180](#) (with Sch. 7)

22 Powers of entry etc. for s. 21.

- (1) In relation to any disease to which section 21 above applies the following persons are authorised officers for the purposes of this section—
- an officer of the appropriate Minister,
 - a veterinary inspector, and
 - any person who, not being such an officer or inspector, is authorised by the appropriate Minister to exercise the powers conferred by this section,
- and subsection (9) of section 21 applies to this section.
- (2) Where an authorised officer has reasonable grounds for suspecting, in the case of any area, that there exists among the wild members of any species in the area a disease to which section 21 applies, he may enter any land in the area and—
- take samples of the wild members of that species, or of their excreta, or of any materials (whether or not forming part of the land) with which wild members of that species may have been in contact;
 - carry out any other investigations which he considers necessary for the purpose of determining, as regards that species and that disease, whether an order under section 21 should be made in respect of the whole or part of the area in question.
- (3) An authorised officer may at any time enter any land in the area to which an order under section 21 applies for any of the following purposes—
- to carry out the destruction of any wild members of a species to which the order relates that may be on that land;
 - to take any such measures as are mentioned in subsection (7) of that section;

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- (c) to ascertain, as regards any wild members of a species to which the order relates, whether destruction has been effectively carried out.
- (4) Where in pursuance of an order under section 21 destruction of wild members of any species to which the order relates has been carried out on any land in the area to which the order applies, then, for the purpose of ascertaining—
- (a) whether the land has been or is being recolonised by wild members of that species, and, if so,
 - (b) whether there exists among them the disease to which the order applies (or, if the order has been revoked, to which it previously applied),
- an authorised officer may enter the land and take such samples of or relating to that species as are mentioned in paragraph (a) of subsection (2) above; but the powers conferred by this subsection shall not be exercisable at any time more than 2 years after the revocation of the order in question.
- (5) [^{F8}Nothing in this section authorises any person to enter a dwellinghouse.]
- (6) A person entering any land in the exercise of powers conferred on him by this section shall, if so required by the owner or occupier or person in charge of the land—
- (a) produce to him some duly authenticated document showing his authority; and
 - (b) state in writing his reasons for entering.
- (7) Without prejudice to subsection (6) above, an authorised officer—
- (a) shall not demand admission as of right to any land forming part of a nature reserve (within the meaning of section 15 of the National Parks and Access to the ^{M1}Countryside Act 1949) maintained or managed by [^{F9} the appropriate conservation body] unless 7 days' notice of the intended entry has been given to [^{F10} the body]; and
 - (b) in exercising any of his powers under subsection (2), (3) or (4) above on any such land shall, as far as possible, do so in accordance with such reasonable requirements for minimising damage to flora, fauna or geological or physiographical features within the reserve as may have been notified by [^{F10} the body] to the appropriate Minister.
- (8) The preceding provisions of this section are without prejudice to any powers conferred on inspectors or others by or by virtue of any other provision of this Act.

Textual Amendments

- F8** S. 22(5) repealed (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(1\)](#) (with s. 54); S.S.I. 2006/482, art. 2
- F9** Words in s. 22(7)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 69\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F10** Words in s. 22(7) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 69\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

Marginal Citations

- M1** 1949 c. 97.

23 Orders as to infected places and areas.

The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prescribing and regulating the publication by placards, handbills, or otherwise, in the immediate neighbourhood of a place or area declared infected, of the fact of such declaration;
- (b) for prohibiting or regulating the movement of animals and persons into, within, or out of an infected place or area;
- (c) for prescribing and regulating the isolation or separation of animals being in an infected place or area;
- (d) for prohibiting or regulating the removal of carcasses, fodder, litter, utensils, pens, hurdles, dung, or other things into, within, or out of an infected place or area;
- (e) for prescribing and regulating the destruction, burial, disposal, or treatment of carcasses, fodder, litter, utensils, pens, hurdles, dung, or other things, being in or removed from an infected place or area;
- (f) for prescribing and regulating the cleansing and disinfection of infected places and areas, or parts of them;
- (g) for prescribing and regulating the disinfection of the clothes of persons being in an infected place, and the use of precautions against the spreading of disease by such persons.

24 Rabies: quarantine and virus control.

The provision which may be made by orders under section 1 above shall (without prejudice to the generality of that provision) include provision—

- (a) for requiring mammals which may be carriers of rabies to be kept in quarantine in such cases, for such periods and under such conditions as may be prescribed by the order;
- (b) for prohibiting or regulating—
 - (i) the keeping and importation of rabies virus in any form; and
 - (ii) the deliberate introduction of the virus into animals.

25 Movement of diseased or suspected animals.

The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prohibiting or regulating the exposure of diseased or suspected animals in markets or fairs or sale-yards, or other public or private places, where animals are commonly exposed for sale, and their placing in lairs or other places adjacent to or connected with markets or fairs, or where animals are commonly placed before exposure for sale;
- (b) for prohibiting or regulating the sending or carrying of diseased or suspected animals, or of dung or other thing likely to spread disease, or causing them to be sent or carried, on railways, canals, rivers, or inland navigations, or in coasting vessels, or in an aircraft engaged in a flight or a part of a flight beginning and ending in Great Britain, or otherwise;

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- (c) for prohibiting or regulating the carrying, leading, or driving of diseased or suspected animals, or causing them to be carried, led or driven, on highways or thoroughfares, or elsewhere;
- (d) for prohibiting or regulating the placing or keeping of diseased or suspected animals on commons or unenclosed lands, or in fields or other places insufficiently fenced, or on the sides of highways.

26 Pleuro-pneumonia or foot-and-mouth disease found in transit.

- (1) The Minister shall by orders make such provision as he thinks necessary or expedient respecting the case of animals found to be affected with pleuro-pneumonia or foot-and-mouth disease—
 - (a) while exposed for sale or exhibited in a market, fair, sale-yard, place of exhibition, or other place; or
 - (b) while placed in a lair or other place before exposure for sale; or
 - (c) while in transit or in course of being moved by land, water or air; or
 - (d) while being in a slaughter-house or place where animals are slaughtered or are kept with a view to slaughter; or
 - (e) while being on common or unenclosed land; or
 - (f) generally, while being in a place not in the possession or occupation or under the control of the owner of the animals.
- (2) The Minister shall by orders under this section make such provision as he thinks fit for the consequences under this Act of animals being so found in the circumstances mentioned above—
 - (a) as well with regard to the animals as with regard to the places where they are when so found, and other places; and
 - (b) with regard to animals being or having been in the same shed or stable, herd or flock as, or in contact with, animals so found.
- (3) The Minister may, by orders under this section relating to particular places, make such provision as he thinks fit for the consequences mentioned above.
- (4) Every order under this section shall have full effect notwithstanding—
 - (a) any provision of this Act requiring the declaration of a place infected with pleuro-pneumonia or foot-and-mouth disease, or relating to any consequence of such a declaration, or to any matter connected with such a declaration; and
 - (b) any other provision whatsoever of this Act.

27 Exclusion of strangers.

- (1) A person owning or having charge of any animals^[F11], birds or amphibians] in a place or area declared infected with any disease may affix, at or near the entrance to a building or enclosure in which the animals^[F11], birds or amphibians] are, a notice forbidding persons to enter the building or enclosure without the permission mentioned in the notice.
- (2) Thereupon it shall not be lawful for any person, not having by law a right of entry or way into, on, or over that building or enclosure, to enter or go into, on, or over the building or enclosure without that permission.

^[F12](3) In this section—

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“animals” means any kind of mammal (except man);
“disease” is not restricted by its definition in this Act.]

Textual Amendments

- F11** Words in s. 27(1) inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(2\)\(a\)](#) (with s. 54); S.S.I. 2006/482, art. 2
- F12** S. 27(3) added (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(2\)\(b\)](#) (with s. 54); S.S.I. 2006/482, art. 2

28 Seizure of diseased or suspected animals.

The Ministers may make such orders as they think fit—

- (a) for prescribing and regulating the seizure, detention and disposal of a diseased or suspected animal exposed, carried, kept or otherwise dealt with in contravention of an order of the Minister; and
- (b) for prescribing and regulating the liability of the owner or consignor or consignee of such animal to the expenses connected with its seizure, detention and disposal.

^{F13}28A Deliberate infection

- (1) A person commits an offence if without lawful authority or excuse (proof of which shall lie on him) he knowingly does anything which causes or is intended to cause an animal to be infected with a disease specified in Schedule 2A.
- (2) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) The Secretary of State may by order amend Schedule 2A.
- (4) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F13** Ss. 28A, 28B inserted (E.W.) (14.1.2003) by [2002 c. 42, s. 12\(1\)](#); S.I. 2002/3044, [art. 2](#)

^{F14}28B Deliberate infection: disqualification

- (1) If a person is convicted of an offence under section 28A the court may by order disqualify him, for such period as it thinks fit, from keeping or dealing in—
 - (a) any animals, or
 - (b) any animals of a specified kind.
- (2) The court may suspend the operation of the order—

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- (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals to which the disqualification relates;
 - (b) pending an appeal.
- (3) A person who is disqualified under subsection (1) may from time to time apply to the court which imposed the disqualification to remove it or vary it.
- (4) On an application under subsection (3) the court may by order—
- (a) refuse the application,
 - (b) remove the disqualification, or
 - (c) vary the disqualification to apply it only to such animals or kind of animals as it specifies.
- (5) In considering an application under subsection (3) the court may have regard to—
- (a) the nature of the offence in respect of which the disqualification was imposed;
 - (b) the character of the applicant;
 - (c) his conduct since the disqualification was imposed.
- (6) The first application under subsection (3) must not be made before the end of the period of one year starting with the date the disqualification starts.
- (7) A further application must not be made before the end of the period of one year starting with the date of the court's last order.
- (8) For the purposes of this section keeping or dealing in an animal includes—
- (a) having custody or control of an animal;
 - (b) being concerned in the management or control of a body (whether or not incorporated) whose activities include keeping or dealing in animals.

Textual Amendments

F14 Ss. 28A, 28B inserted (E.W.) (14.1.2003) by 2002 c. 42, s. 12(1); S.I. 2002/3044, art. 2

[^{F15}28C Deliberate infection: Scotland

- (1) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person—
- (a) knowingly does anything which causes or is intended to cause; or
 - (b) recklessly causes,
- an animal or bird to be infected with a disease specified in Schedule 2B to this Act.
- (2) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person acquires or retains—
- (a) an animal or bird; or
 - (b) the carcass of an animal or bird,
- which the person knows, or ought reasonably to know, to be infected with a disease specified in Schedule 2B to this Act.
- (3) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person acquires or retains anything obtained from, produced by or used in connection with—

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- (a) an animal or bird; or
 - (b) the carcase of an animal or bird,
- which the person knows, or ought reasonably to know, to be infected with a disease specified in Schedule 2B to this Act.
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (5) In this section and sections 28D to 28H, the references to an animal mean any kind of mammal (except man).]

Textual Amendments

F15 Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. 10, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

[^{F15}28D Deliberate infection: deprivation of entitlement to compensation

- (1) Where a person is convicted of an offence under section 28C, any provision of this Act by virtue of which compensation is payable to the person does not apply in respect of anything to which this subsection applies.
- (2) Subsection (1) applies to animals to which that offence relates.
- (3) Subsection (1) also applies to any other animals which were kept on the same premises as the animals referred to in subsection (2)—
- (a) at the same time (or any part of the time) as those animals; and
 - (b) at or after the time when the offence was committed,
- and in relation to which compensation would be payable but for this section.
- (4) Subsection (1) also applies to—
- (a) any carcasses seized under an order made under section 35(1) or 36ZA(1)—
 - (i) which are of the animals referred to in subsection (2) or of the other animals referred to in subsection (3); and
 - (ii) in relation to which compensation would be payable but for this section;
 - (b) other things seized under such an order—
 - (i) which were obtained from or produced by those animals; and
 - (ii) in relation to which compensation would be payable but for this section; and
 - (c) anything else—
 - (i) seized under such an order; and
 - (ii) which was present on the same premises as those animals, or those carcasses or other things, at the time described by paragraphs (a) and (b) of subsection (3),
- and in relation to which compensation would be payable but for this section.

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- (5) Any compensation paid to a person in respect of anything to which subsection (1) applies may be recovered by the Scottish Ministers.
- (6) In subsection (3), “ premises ” includes—
- (a) any land or building; or
 - (b) any other place, in particular—
 - (i) a vehicle or vessel; or
 - (ii) a tent or moveable structure.]

Textual Amendments

F15 Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. [10](#), [55\(1\)](#) (with s. [54](#)); S.S.I. 2006/482, art. 2

[^{F15}28E Deliberate infection: deprivation orders

- (1) Where a person is convicted of—
 - (a) an offence under section 28C; or
 - (b) an offence under section 28F(16) by reason of owning or keeping an animal, the convicting court may make an order (in this section and section 28H referred to as a “ deprivation order ”) in respect of any animal in relation to which the offence was committed.
- (2) A deprivation order is an order—
 - (a) depriving a person of possession or ownership (or both) of an animal; and
 - (b) for—
 - (i) the destruction;
 - (ii) the sale; or
 - (iii) another disposal,
 of the animal.
- (3) Where the court decides not to make a deprivation order in relation to an offence referred to in subsection (1), it must state its reasons except where it makes a disqualification order in relation to the offence.
- (4) A deprivation order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to a relevant offence.
- (5) A deprivation order may make provision in respect of any dependent offspring of an animal to which it applies.
- (6) A deprivation order may include—
 - (a) provision—
 - (i) appointing a person who is to secure that the order is carried out;
 - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i);
 - (b) provision authorising—
 - (i) a person appointed under paragraph (a)(i); and
 - (ii) any person acting on that person's behalf,

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- to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept;
- (c) such other provision as the court considers appropriate in connection with the order.
- (7) Provision under subsection (6)(c) may, in particular—
- (a) require reimbursement of any expenses reasonably incurred in carrying out the order;
- (b) relate to the retention of any proceeds of the disposal.
- (8) The court may not make a deprivation order involving the destruction of an animal unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the animal.
- (9) Before making a deprivation order, the court must give the owner of the animal concerned an opportunity to make representations unless it is not practicable for it to do so.
- (10) A deprivation order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995 (c. 46), to be treated as a sentence.
- (11) Where a deprivation order is made, any person (apart from a person who may appeal against the order by virtue of subsection (10)) who has an interest in any animal to which the order applies may appeal to the [^{F16}High Court of Justiciary][^{F16}appropriate Appeal Court] against the order by the same procedure as applies under subsection (10).
- [In subsection (11), “appropriate Appeal Court” means—
- ^{F17}(11A) (a) in the case of an appeal against an order made following summary conviction, the Sheriff Appeal Court; and
- (b) in the case of an appeal against an order made following conviction on indictment, the High Court of Justiciary.]
- (12) In this section and section 28G, “ premises ” includes—
- (a) any land or building; or
- (b) any other place, in particular—
- (i) a vehicle or vessel; or
- (ii) a tent or moveable structure.
- (13) In this section and section 28G, “ veterinary surgeon ” means a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966 (c. 36).]

Textual Amendments

- F15** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 10, 55(1)** (with s. 54); S.S.I. 2006/482, art. 2
- F16** Words in s. 28E(11) substituted (S.) (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions No. 2\) Order 2015 \(S.S.I. 2015/338\)](#), art. 1, **Sch. 2 para. 1(2)** (with art. 4)
- F17** S. 28E(11A) inserted (S.) (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions No. 2\) Order 2015 \(S.S.I. 2015/338\)](#), art. 1, **Sch. 2 para. 1(3)** (with art. 4)

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[^{F15}28F Deliberate infection: disqualification orders

- (1) Where a person is convicted of an offence under section 28C or subsection (16), the convicting court may make an order (in section 28E, this section and section 28G referred to as a “disqualification order”) disqualifying that person, for such period as it thinks fit, from one or more of the activities specified in subsection (2).
- (2) Those activities are—
 - (a) owning or keeping animals (or both);
 - (b) dealing in animals;
 - (c) transporting animals;
 - (d) working with or using animals;
 - (e) riding or driving animals;
 - (f) providing any service relating to animals (including, in particular, for their care) which involves taking possession of animals;
 - (g) taking possession of animals for the purpose of an activity in respect of which a disqualification mentioned in paragraphs (a) to (f) is imposed;
 - (h) taking charge of animals for any, or any other, purpose.
- (3) For the purposes of subsection (1), disqualification in respect of an activity specified in subsection (2) includes disqualification from any participation in the activity including, in particular—
 - (a) making arrangements in connection with the activity;
 - (b) being party to arrangements under which the activity may be controlled or influenced;
 - (c) being concerned (so far as relating to the activity) in the management or control of a body whose business involves the activity.
- (4) However, disqualification by reference to subsection (2)(h) does not include disqualification from taking charge of an animal for so long as is necessary in the circumstances—
 - (a) with the consent of the owner or keeper of the animal, for the purpose of caring for it;
 - (b) for the purpose of alleviating any suffering of the animal, if no alternative arrangements for its care are reasonably available.
- (5) Where the court decides not to make a disqualification order in relation to an offence under section 28C or subsection (16), it must state its reasons.
- (6) A disqualification order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to an offence under that section.
- (7) A disqualification order may apply to animals generally or to animals of any particular kind.
- (8) A disqualification order may specify a period within which an application under subsection (11) may not be made.
- (9) The court may suspend the operation of a disqualification order—
 - (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals to which the disqualification applies;
 - (b) pending an appeal.

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- (10) A disqualification order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995, to be treated as a sentence.
- (11) A person who is subject to a disqualification order may apply to the court which imposed the order to terminate or vary it.
- (12) An application under subsection (11) may not be made—
- (a) before the expiry of the period of one year beginning with the date on which the order was made;
 - (b) where there has been a previous application under that subsection in relation to the same order, before the expiry of the period of one year beginning with the date on which the previous application was determined; or
 - (c) within any period specified under subsection (8) or (15).
- (13) On an application under subsection (11), the court may—
- (a) refuse the application;
 - (b) terminate the disqualification order; or
 - (c) vary the disqualification order so as to relax any disqualification imposed by it.
- (14) In considering an application under subsection (11), the court must have particular regard to—
- (a) the nature of the offence in relation to which the disqualification order was made;
 - (b) the character of the applicant;
 - (c) the conduct of the applicant since the order was made.
- (15) Where the court refuses an application made under subsection (11), the court may specify a period within which the applicant may not make a further application under that subsection in relation to that order.
- (16) A person who breaches a disqualification order commits an offence.]

Textual Amendments

F15 Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. 10, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

[^{F15}28G Seizure orders where disqualification breached

- (1) Where the court is satisfied that a person who is subject to a disqualification order owns or keeps any animal in breach of the order, the court may make an order (in this section and section 28H referred to as a “ seizure order ”) in respect of all animals which the person owns or keeps in breach of the disqualification order.
- (2) A seizure order may be made—
- (a) on summary application by an inspector;
 - (b) even if proceedings have not been, or are not likely to be, taken against the person for an offence under section 28F(16).
- (3) In subsection (2)(a), “ inspector ” means—

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- (a) a person appointed as an inspector for the purposes of this Act by the Scottish Ministers; or
 - (b) a person authorised by the Scottish Ministers for those purposes.
- (4) A seizure order is an order—
- (a) depriving a person of possession or ownership (or both) of an animal; and
 - (b) for—
 - (i) the destruction;
 - (ii) the sale; or
 - (iii) another disposal,of the animal.
- (5) A seizure order may include—
- (a) provision—
 - (i) appointing a person who is to secure that the order is carried out;
 - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i);
 - (b) provision authorising—
 - (i) a person appointed under paragraph (a)(i); and
 - (ii) any person acting on that person's behalf,to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept;
 - (c) such other provision as the court considers appropriate in connection with the order.
- (6) Provision under subsection (5)(c) may, in particular—
- (a) require reimbursement of any expenses reasonably incurred in carrying out the order;
 - (b) relate to the retention of any proceeds of the disposal.
- (7) The court may not make a seizure order which involves the destruction of an animal unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the animal.
- (8) Before making a seizure order, the court must give the owner of the animals concerned an opportunity to make representations unless it is not practicable for it to do so.
- (9) In determining whether or how to make a seizure order, the court must have regard to the desirability of—
- (a) protecting the value of any animal to which the order applies; and
 - (b) avoiding increasing any expenses which a person may be required to reimburse.
- (10) Where an application is made under subsection (2)(a), the court may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of an animal until the application is finally determined.
- (11) Subsections (5), (6)(a) and (9) apply in relation to an interim order as they apply in relation to a seizure order.

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- (12) The disqualified person by reference to whom a seizure order is made, or any person (apart from that disqualified person) who entered the process prior to the making of the order, may appeal to the Sheriff Principal against the order.]

Textual Amendments

F15 Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. [10](#), [55\(1\)](#) (with s. [54](#)); S.S.I. 2006/482, art. [2](#)

[^{F15}28H Suspension of orders pending appeal

- (1) The operation of any deprivation order or seizure order is suspended until—
- (a) any period for an appeal against the order has expired;
 - (b) the period for an appeal against the conviction on which the order depends has expired; and
 - (c) any appeal against the order or that conviction has been withdrawn or finally determined.
- (2) Where the operation of a deprivation order or seizure order is suspended under subsection (1), or such an order is not executable because decree has not been extracted, the court may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of an animal for so long as the first-mentioned order remains suspended or inexecutable.
- (3) An interim order may, in particular, make provision of the sort described in—
- (a) paragraphs (a) and (b) of subsection (5) of section 28G;
 - (b) paragraph (a) of subsection (6) of that section.
- (4) In determining whether or how to make an interim order, the court must have regard to the desirability of—
- (a) protecting the value of any animal to which the order applies; and
 - (b) avoiding increasing any expenses which a person may be required to reimburse.]

Textual Amendments

F15 Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. [10](#), [55\(1\)](#) (with s. [54](#)); S.S.I. 2006/482, art. [2](#)

[^{F18}28I Specified diseases: Scotland

- (1) Schedule 2B to this Act has effect as to the specification of certain diseases of animals.
- (2) The Scottish Ministers may by order modify Schedule 2B.
- (3) An order made under subsection (2)—
- (a) is to be laid before the Scottish Parliament; and

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- (b) ceases to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by a resolution of the Parliament.
- (4) However, paragraph (b) of subsection (3) does not apply in relation to an order which—
 - (a) revokes (wholly or partly) a previous order; and
 - (b) does nothing else, or nothing else except make provision incidental or supplementary to the revocation.
- (5) In reckoning for the purposes of subsection (3)(b) any period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—
 - (a) dissolved; or
 - (b) in recess for more than 4 days.
- (6) Subsection (3)(b) is without prejudice to anything previously done by reference to a modification made by an order under subsection (2) or to the making of a new order under that subsection.
- (7) An order under subsection (2) must include a statement of the reasons for making the order.]

Textual Amendments

F18 S. 28I inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. **9(1)**, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

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