

The Animal Health and
Welfare (Scotland) Act 2006
The Animal Welfare Act
2006

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Overview

- Significant step forward for domestic and captive animals in Scotland, England and Wales
- Introduces a “Duty of Care”
- Allows an Inspector to take possession of an animal before a court decides whether an offence has been committed
- Power to make Regulations

Historical development from 2002

- Problems with the Protection of Animals (Scotland) Act 1912 and the Protection of Animals Act 1911
- Major review of existing animal welfare legislation

Animal Cruelty

The general offence of causing an animal unnecessary suffering from the 1911 and 1912 Acts has been retained.

The new Acts make it an offence to cause a protected animal unnecessary suffering by an act or, where a person is responsible for an animal, by an act or omission.

Protected Animal

A “protected animal” is

- Of a kind normally domesticated in the British Isles
- Under the control of Man on a temporary or permanent basis, or
- Not living in a wild state.

Responsibility

A person becomes responsible for an animal

- If that person owns the animal, or
- Is in charge of the animal

Duty of Care

- Previously only applied to livestock
- Reasonable steps in all circumstances to ensure that animal's needs are met to the extent required by good practice.
- Courts to take into consideration:
 - Any lawful purpose for which an animal is kept
 - Any lawful activity undertaken in relation to the animal.

Needs of an Animal

The "FIVE FREEDOMS"

- A suitable environment
- A suitable diet
- Its need to exhibit normal behavioural patterns
- Any need to be housed with or apart from other animals
- Its need to be protected from suffering, injury and disease.

Codes of Practice

Section 37 of the Scottish Act and Section 14 of the English and Welsh Act allow Minister to issue "Codes of Practice" for the purpose of providing practical guidance.

Codes of Practice

It is not an offence, in itself, to fail to comply with a Code of Practice but a failure to comply with its provisions could be taken into consideration by a court if a prosecution was taken forward under the Duty of Care.

Power to make Regulations

Section 27 of the Scottish Act and Section 12 of the English & Welsh Act give Ministers the power to make Regulations “for the purpose of securing the welfare of animals” – in Scotland, and “for the purpose of promoting the welfare of animals” – in England and Wales.

Regulations

Regulations made under the Acts can require an animal activity to be licensed by or registered with a local authority.

Ministers can set licence conditions which must be complied with before a licence can be issued or a registration accepted.

Regulations

Regulations are made under Secondary Legislation but Ministers must consult “such persons appearing to them to represent relevant interests”.

They must be laid before and approved by Parliament – the Affirmative Process.

Regulations

It is Government policy (UK and Scottish) only to make Regulations where this is necessary to secure or promote the welfare of animals.

Where there is no problem it is unlikely that there will be a need for Regulations

Codes of Practice should be considered first

Conclusion

- The Acts and the Regulations will make a significant impact on animal welfare
- Unnecessary suffering retained
- Duty of Care – a giant leap forward
- Codes of Practice will increase knowledge
- Regulations allow flexibility and for the law to develop as circumstances change