



FALKLAND ISLANDS

Animals (Welfare and Protection) Ordinance 2016

(No: 11 of 2016)

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[Revision w.e.f. 31/07/2017]



FALKLAND ISLANDS

ANIMALS (WELFARE AND PROTECTION) ORDINANCE 2016

(assented to: 19 December 2016)
(commencement: in accordance with section 1)
(published: 23 December 2016)

AN ORDINANCE To provide for the welfare and protection of animals and for connected matters.

PART 1 - PRELIMINARY

1. Title and commencement

- (1) This Ordinance may be cited as the Animals (Welfare and Protection) Ordinance 2016.
- (2) This Ordinance comes into operation on a day or days appointed by the Governor by notice in the *Gazette*.
- (3) Different dates may be appointed under subsection (2) for different provisions and for different purposes.

2. Interpretation

- (1) In this Ordinance, unless otherwise stated or the context otherwise requires —

“animal” has the meaning given to that term by section 4(1);

“bull” includes any cow, bullock, heifer, calf, steer or ox;

“cat” includes a kitten;

“damage” includes the death of, or injury to, any person;

“Director” means the person performing the functions of Director of Natural Resources;

“dog” includes any bitch or puppy;

“domestic animal” has the meaning given that term by section 5(3);

“exhibit” means exhibit at any entertainment to which the public are admitted, whether on payment of money or otherwise; and “exhibitor” has the corresponding meaning;

“fowl” includes any cock, hen, chicken, capon, turkey, goose, gander, duck, drake, guinea-fowl, peacock, peahen, swan, or pigeon;

“goat” includes a kid;

“horse” includes any mare, gelding, pony, foal, colt, filly, or stallion;

“humanely destroy”, in relation to an animal, means —

(a) to put to death by means of the administration of a lethal injection in such a way as not to be likely to cause unnecessary pain or suffering to the animal; or

(b) otherwise to put to death in a way not likely to cause unnecessary pain or suffering to the animal;

“inspector” includes a veterinary officer or any person appointed by the Governor to be an inspector for the purposes of this Ordinance;

“keeper” has the meaning given that term by section 3(3);

“licence” means a licence issued under regulations made under section 54;

“non-native animal” has the meaning given that term by section 31;

“owner”, in relation to an animal, means the person to whom the animal lawfully belongs and includes an agent of the owner;

“pig” includes any boar, hog, sow or piglet;

“post-conviction powers” means the powers in any of sections 40 to 47;

“premises” includes —

(a) any place;

(b) any vehicle, vessel, aircraft or hovercraft;

(c) any tent or movable structure;

“Senior Veterinary Officer” means the person performing the duties of the senior veterinary officer of the Government;

“sheep” includes any lamb, ewe, or ram;

“suffering” means physical or mental suffering and related expressions are to be construed accordingly;

“train” means train for the purpose of exhibiting; and “trainer” has the corresponding meaning;

“unsuitable animal” means an animal specified as such by an order made under section 31;

“veterinary surgeon” means a person qualified in veterinary medicine and surgery and registered with a body established or recognised for that purpose under the laws of a country or territory.

(2) In this Ordinance —

(a) references to the occupier of premises, in relation to any vehicle, vessel, aircraft or hovercraft, are to the person who appears to be in charge of the vehicle, vessel, aircraft or hovercraft, and “unoccupied premises” are to be construed accordingly;

(b) references to a part of premises which is used as a private dwelling include any yard, garden, garage or outhouse which is used for purposes in connection with it;

(c) references to responsibility, in relation to an animal, are to be read in accordance with section 3;

(d) references to the needs of an animal are to be read in accordance with section 7(2).

[UK Animal Welfare Act 2006 s.3; Dangerous Wild Animals Act 1976 s.7]

3. Responsibility for animals

(1) In this Ordinance —

(a) references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis;

(b) references to being responsible for an animal include being in charge of it.

(2) For the purposes of this Ordinance —

(a) the owner of an animal is to be regarded as responsible for it;

(b) a person (‘A’) is to be regarded as responsible for any animal for which a person under the age of 16 years of whom A has actual care and control is responsible.

(3) In this Ordinance —

(a) “keeper”, in relation to an animal, means a person, not being the owner of that animal, by whom that animal is for the time being ordinarily kept;

(b) a person is a keeper of an animal if the person has it in the person’s possession;

(c) if at any time an animal ceases to be in the possession of a person, any person who immediately before that time was a keeper of the animal by virtue of paragraph (a) or (b) continues to be a keeper of the animal until another person becomes its keeper by virtue of those provisions;

(d) if an animal is in the possession of any person only so that the person can —

- (i) prevent it from causing damage;
- (ii) restore it to its owner;
- (iii) arrange for it to undergo veterinary treatment; or
- (iv) transport it on behalf of another person,

the person is not because of that possession to be treated for the purposes of this Ordinance as a keeper of the animal;

(e) expressions cognate with “keeper” must be construed in accordance with this subsection.

[Animals (Amendment) Ordinance; UK Protection of Animals Act 1911 s.15; Animal Welfare Act 2006 s.3 etc.]

4. Meaning of “animal”

(1) In this Ordinance, except subsections (4) and (5) of this section, “animal” means a vertebrate other than a human.

(2) Nothing in this Ordinance applies to an animal while it is in its foetal or embryonic form.

(3) The Governor may by order for all or any of the purposes of this Ordinance —

- (a) extend the definition of “animal” so as to include invertebrates of any description;
- (b) make provision in place of subsection (2) as respects any invertebrates included in the definition of “animal”; and
- (c) amend subsection (2) to extend the application of this Ordinance to an animal from an earlier stage of its development specified in the regulations.

(4) The power under subsection (3)(a) or (c) may only be exercised if the Governor is satisfied, on the basis of scientific evidence, that animals of the kind concerned are capable of experiencing pain or suffering.

(5) In this section, “vertebrate” means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and “invertebrate” means any animal not of that Sub-phylum.

[UK Animal Welfare Act 2006 ss.1 and 59]

5. Application of the Ordinance

(1) This Ordinance applies to all animals, including animals of a kind that are commonly kept for slaughter, except that —

(a) provisions that are stated to apply to domestic animals apply only to the animals specified in subsection (3);

(b) if there is any conflict between the requirements of or under this Ordinance and the requirements of or under the Livestock and Meat Products Ordinance 2010 in relation to animals kept for slaughter, the latter requirements prevail.

[Revision w.e.f. 31/07/2017]

(2) This Ordinance —

(a) does not apply in relation to anything which occurs in the normal course of fishing;

(b) does not displace or affect any of the written laws relating to fishing and fisheries;

(c) does not displace or affect any enactment relating to animals except as provided in Schedule 2.

(3) An animal is a “domestic animal” for the purposes of this Ordinance if it is —

(a) a horse, ass, mule, bull, sheep, pig, goat, dog, cat, or fowl;

(b) an animal of any other kind or species, whether a quadruped or not, which is tame or which has been or is being sufficiently tamed to serve some purpose for the use of man;

(c) under the control of man whether on a permanent or temporary basis; or

(d) not living in a wild state.

[UK Animal Welfare Act 2006 s.2 adapted]

PART 2 – ANIMAL WELFARE

Unnecessary suffering - domestic animals

6. Unnecessary suffering

(1) A person (‘A’) commits an offence if —

(a) an act of A, or a failure of A to act, causes an animal to suffer;

(b) A knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so;

(c) the animal is a domestic animal; and

(d) the suffering is unnecessary.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(2) A person ('A') commits an offence if —

- (a) A is responsible for an animal;
- (b) an act, or failure to act, of another person ('B') causes the animal to suffer;
- (c) A permitted that to happen or failed to take such steps (whether by way of supervising B or otherwise) as were reasonable in all the circumstances to prevent that happening; and
- (d) the suffering is unnecessary.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(3) For the purposes of this Ordinance, any pain or suffering is unnecessary if, in all the circumstances of the case, it is reasonably avoidable or preventable.

(4) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include whether —

- (a) the suffering could reasonably have been avoided or reduced;
- (b) the conduct which caused the suffering was in compliance with this Ordinance, or any provisions of a licence or code of practice issued under this Ordinance;
- (c) the conduct which caused the suffering was for a legitimate purpose, such as —
 - (i) the purpose of benefiting the animal; or
 - (ii) the purpose of protecting a person, property or another animal;
- (d) the suffering was proportionate to the purpose of the conduct concerned;
- (e) the conduct concerned was in all the circumstances that of a reasonably competent and humane person.

(5) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

[UK Animal Welfare Act 2006 s.4]

Promotion of welfare

7. Duty of person responsible for animal to ensure welfare

(1) A person who is responsible for any animal commits an offence if the person does not take such steps as are reasonable in all the circumstances to ensure that the needs of the animal are met to the extent required by good practice.

Penalty: Imprisonment for 12 months or a fine at level 6 on the standard scale, or both.

(2) For the purposes of this Part, an animal's needs are to be taken to include —

- (a) its need for a suitable environment;
- (b) its need for a suitable diet;
- (c) its need to be able to show normal behaviour patterns;
- (d) any need it has to be housed with, or apart from, other animals; and
- (e) its need to be protected from pain, suffering, injury and disease.

(3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular —

- (a) any lawful purpose for which the animal is kept; and
- (b) any lawful activity undertaken in relation to the animal.

(4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

[UK Animal Welfare Act 2006 s.9]

8. Improvement notices

(1) If an inspector is of the opinion that a person is failing to comply with section 7(1), the inspector may serve on the person a notice which —

- (a) states that the inspector is of that opinion;
- (b) specifies the respects in which he or she considers the person is failing to comply with that provision;
- (c) specifies the steps he or she considers need to be taken in order to comply with the provision;
- (d) specifies a period for the taking of those steps (“the compliance period”); and
- (e) explains the effect of subsections (3) and (4).

(2) An improvement notice may —

- (a) be in the form of a letter;
- (b) specify a compliance period according to the severity of the harm and the nature of the conditions.

(3) If a notice under subsection (1) (“an improvement notice”) is served, no proceedings for an offence under section 7(1) may be instituted before the end of the compliance period in respect of —

(a) the non-compliance which gave rise to the notice; or

(b) any continuation of that non-compliance.

(4) If the steps specified in an improvement notice are taken at any time before the end of the compliance period, no proceedings for an offence under section 7(1) may be instituted in respect of —

(a) the non-compliance which gave rise to the notice; or

(b) any continuation of that non-compliance prior to the taking of the steps specified in the notice.

(5) An inspector may extend, or further extend, the compliance period specified in an improvement notice.

[UK Animal Welfare Act 2006 s.10]

9. Transfer of animals by way of sale or prize to persons under 16

(1) A person who sells an animal to a person under the age of 16 years commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 4 on the standard scale, or both.

(2) For the purposes of subsection (1), selling an animal includes transferring, or agreeing to transfer, ownership of the animal in consideration of entry by the transferee into another transaction.

(3) Subject to subsections (4) to (6), a person (‘A’) who enters into an arrangement with a person (‘B’) under which B has the chance to win an animal as a prize commits an offence if B is under the age of 16 years.

Penalty: Imprisonment for 12 months or a fine at level 4 on the standard scale, or both.

(4) A does not commit an offence under subsection (3) if —

(a) A enters into the arrangement in the presence of the person with whom the arrangement is made; and

(b) A has reasonable cause to believe that the person with whom the arrangement is made is accompanied by a person who is not under the age of 16 years.

(5) A does not commit an offence under subsection (3) if —

(a) A enters into the arrangement otherwise than in the presence of the person with whom the arrangement is made; and

(a) A has reasonable cause to believe that a person who has actual care and control of the person with whom the arrangement is made has consented to the arrangement.

(6) A does not commit an offence under subsection (3) if A enters into the arrangement with A's own child or grandchild (including by adoption), cousin, nephew, niece or sibling.

[UK Animal Welfare Act 2006 s.11 expanded]

10. Regulations to promote welfare

(1) The Governor may by regulations under section 54 make any provision the Governor thinks fit for the purpose of promoting the welfare of animals for which a person is responsible, or the offspring of such animals.

(2) Without limiting subsection (1), regulations made for the purpose mentioned in that subsection may include provision —

(a) imposing specific requirements for the purpose of securing that the needs of animals are met;

(b) to facilitate or improve co-ordination in relation to the carrying out by different persons of functions relating to the welfare of animals;

(c) either —

(i) conferring on a department of the government functions relating to advice about the welfare of animals; or

(ii) for the establishment of a statutory body with those functions.

[UK Animal Welfare Act 2006 s.12]

11. Licensing of activities involving animals

(1) A person must not carry on an activity to which this section applies except under the authority of a licence issued under regulations made under section 54.

(2) Subsection (1) applies to an activity which —

(a) involves animals for which a person is responsible; and

(b) is specified for the purposes of the subsection by regulations.

(3) A person who contravenes subsection (1) commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 5 on the standard scale, or both.

[UK Animal Welfare Act 2006 s.13]

Domestic animals in distress

12. Powers in relation to animals in distress

(1) If —

(a) an inspector or a police officer (within Stanley) reasonably believes that a domestic animal is suffering; or

(b) any person outside of Stanley reasonably believes that a domestic animal is suffering,

the inspector, officer or the person may take, or arrange for the taking of, such steps as appear to him or her to be immediately necessary to alleviate the animal's suffering.

(2) Subsection (1)(a) does not authorise destruction of an animal but a person under subsection (1)(b) may destroy an animal where the animal is under severe distress and the person is able to carry out the destruction.

(3) If the Senior Veterinary Officer certifies that the condition of a domestic animal is such that it should in its own interests be destroyed, an inspector or a police officer may —

(a) destroy the animal where it is or take it to another place and destroy it there; or

(b) arrange for the doing of any of the things mentioned in paragraph (a).

(4) An inspector or a police officer may act under subsection (3) without the certificate of the Senior Veterinary Officer if it appears to the inspector or officer that —

(a) the condition of the animal is such that there is no reasonable alternative to destroying it; and

(b) the need for action is such that it is not reasonably practicable to wait for the Senior Veterinary Officer.

(5) An inspector or a police officer may take a domestic animal into possession if the Senior Veterinary Officer certifies that it is —

(a) suffering; or

(b) likely to suffer if its circumstances do not change.

(6) An inspector or a police officer may act under subsection (5) without the certificate of the Senior Veterinary Officer if it appears to the inspector or officer that —

(a) the animal is suffering or that it is likely to do so if its circumstances do not change; and

(b) the need for action is such that it is not reasonably practicable to wait for the Senior Veterinary Officer.

(7) The power conferred by subsection (5) includes power to take into possession dependent offspring of an animal taken into possession under that subsection.

(8) If an animal is taken into possession under subsection (5), an inspector or a police officer may —

(a) remove it, or arrange for it to be removed, to a place of safety;

(b) care for it, or arrange for it to be cared for —

(i) on the premises where it was being kept when the decision was made that it should be taken into possession; or

(ii) at any other place the inspector or officer thinks fit;

(c) mark it, or arrange for it to be marked, for identification purposes.

(9) A person acting under subsection (8)(b)(i), or under an arrangement under that provision, may make use of any equipment on the premises.

(10) The Senior Veterinary Officer may examine and take samples from an animal for the purpose of determining whether to issue a certificate under subsection (3) or (5) with respect to the animal.

(11) If a person ('A') exercises a power under this section otherwise than with the knowledge of a person ('B') who is responsible for the animal concerned, A must, as soon as reasonably practicable after exercising the power, take such steps as are reasonable in the circumstances to bring the exercise of the power to the notice of B.

(12) A person who intentionally obstructs another person in the exercise of a power conferred by this section commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 4 on the standard scale, or both.

(13) The Magistrate's Court or the Summary Court may, on application by a person who incurs expenses in acting under this section, order that the person be reimbursed by such other person as the court thinks fit.

(14) A person affected by a decision under subsection (13) may appeal against the decision to the Supreme Court.

[UK Animal Welfare Act 2006 s.18]

13. Power of entry for section 12 purposes

(1) An inspector or a police officer may enter premises for the purpose of searching for a domestic animal and of exercising any power under section 12 in relation to it if the inspector or officer reasonably believes that —

(a) there is a domestic animal on the premises; and

(b) the animal is suffering or, if the circumstances of the animal do not change, it is likely to suffer.

(2) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling.

(3) An inspector or a police officer may enter any premises for the purpose of this section with the consent of the owner or occupier or on the authority of a warrant issued under section 38.

(4) An inspector or a police officer may (if necessary) use reasonable force in exercising the power conferred by subsection (1), if it appears to the inspector or officer that entry is being refused and is required before a warrant under section 38 can be obtained and executed.

[UK Animal Welfare Act 2006 s.19]

14. Orders in relation to animals taken under section 12(5)

(1) The Magistrate's Court or the Summary Court may order in relation to an animal taken into possession under section 12(5) that —

(a) specified treatment be administered to the animal;

(b) possession of the animal be given up to a specified person;

(c) the animal be sold;

(d) the animal be disposed of otherwise than by way of sale; or

(e) the animal be destroyed.

(2) If an animal is taken into possession under section 12(5) when it is pregnant, the power conferred by subsection (1) is also exercisable in relation to any offspring that results from the pregnancy.

(3) The power conferred by subsection (1) is exercisable on application by —

(a) the owner of the animal; or

(b) any other person appearing to the court to have a sufficient interest in the animal.

(4) A court must not make an order under subsection (1) unless it —

(a) has given the owner of the animal an opportunity to be heard; or

(b) is satisfied that it is not reasonably practicable to communicate with the owner.

- (5) If a court makes an order under subsection (1), it may —
- (a) appoint a person to carry out, or arrange for the carrying out, of the order;
 - (b) give directions with respect to the carrying out of the order;
 - (c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;
 - (d) order a person to reimburse the expenses of carrying out the order.
- (6) In determining how to exercise its powers under this section, the court must have regard, amongst other things, to the desirability of protecting the animal's value and avoiding increasing any expenses which a person might be ordered to reimburse.
- (7) A person who intentionally obstructs a person in the exercise of any power conferred by virtue of this section commits an offence.
Penalty: Imprisonment for 12 months or a fine at level 4 on the standard scale, or both.
- (8) If the owner of the animal is subject to a liability by virtue of section 12(13) or subsection (5)(d) above, any amount to which the owner is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

[UK Animal Welfare Act 2006 s.20]

15. Orders under section 14: Appeals

- (1) If a court makes an order under section 14(1), the owner of the animal to which the order relates may appeal against the order to the Supreme Court.
- (2) Nothing may be done under an order under section 14(1) unless —
- (a) the period for giving notice of appeal against the order has expired; and
 - (b) if the order is the subject of an appeal, the appeal has been determined or withdrawn.
- (3) If the effect of an order is suspended under subsection (2) —
- (a) no directions given in connection with the order have effect; but
 - (b) the court may give directions about how any animal to which the order applies is to be dealt with during the suspension.
- (4) Directions under subsection (3)(b) may, in particular —
- (a) appoint a person to carry out, or arrange for the carrying out, of the directions;
 - (b) require any person who has possession of the animal to deliver it up for the purposes of the directions;

(c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the directions;

(d) provide for the recovery of any expenses which are reasonably incurred in carrying out the directions.

(5) If a court decides on an application under section 14(3) not to exercise the power conferred by subsection (1) of that section, the applicant may appeal against the decision to the Supreme Court.

(6) If a court makes an order under section 14(5)(d), the person against whom the order is made may appeal against the order to the Supreme Court.

[UK Animal Welfare Act 2006 s.21]

PART 3 - PROTECTION OF ANIMALS

Poison, etc.

16. Poisoning, etc. of domestic animals

(1) A person who, without lawful authority or reasonable excuse —

(a) administers any poisonous or injurious drug or substance to a domestic animal, knowing it to be poisonous or injurious; or

(b) causes any poisonous or injurious drug or substance to be taken by a domestic animal, knowing it to be poisonous or injurious,

commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(2) A person ('A') commits an offence if —

(a) A is responsible for an animal;

(b) without lawful authority or reasonable excuse, another person ('B') administers a poisonous or injurious drug or substance to the animal or causes the animal to take such a drug or substance; and

(c) A permitted that to happen or, knowing the drug or substance to be poisonous or injurious, failed to take such steps (whether by way of supervising B or otherwise) as were reasonable in all the circumstances to prevent that happening.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(3) In this section, references to a poisonous or injurious drug or substance include a drug or substance which, by virtue of the quantity or manner in which it is administered or taken, has the effect of a poisonous or injurious drug or substance.

[UK Animal Welfare Act 2006 s.7]

17. Other offences in connection with poisons

(1) A person who —

- (a) sells, or offers or exposes for sale, or gives away;
- (b) causes or procures any person to sell or offer or expose for sale or give away; or
- (c) knowingly is a party to the sale or offering or exposing for sale or giving away,

of any grain or seed which has been rendered poisonous, except for genuine use in agriculture, commits an offence.

Penalty: A fine at level 4 on the standard scale.

(2) A person who —

- (a) knowingly puts or places;
- (b) causes or procures any person to put or place; or
- (c) knowingly is a party to the putting or placing,

in or upon any land or building, of any poison, or any fluid or edible matter (not being sown seed or grain) which has been rendered poisonous, commits an offence.

Penalty: A fine at level 4 on the standard scale.

(3) In any proceedings under subsection (2), it is a defence that the poison was placed by the defendant for the purpose of destroying insects and other invertebrates, rats, mice, or other small ground vermin, if that is reasonably necessary —

- (a) in the interests of public health, agriculture, or the preservation of other animals, domestic or wild and that the defendant took all reasonable precautions to prevent injury from the poison or other matter to dogs, cats, fowls, or other domestic animals and wild birds; or
- (b) for the purpose of conservation or restoration of habitats as provided for under guidance issued by the Environmental and Planning Department.

(4) Subject to section 18, a person is not guilty of an offence under this section by reason only that the person uses poisonous gas in a rabbit hole, or places in a rabbit hole a substance which, by evaporation or in contact with moisture generates poisonous gas.

[UK Protection of Animals Act 1911 s.8; Prevention of Damage by Rabbits Act 1939 ss.1 and 5]

18. Prohibited or restricted use of poisons

(1) If the use of any poison for the purpose of destroying any animal has been prohibited or restricted by regulations under section 54, the fact that the poison was used as mentioned in

section 17(4) is not a defence in proceedings under that section if the poison was used in contravention of the regulations.

(2) If the use of any poison for the purpose of destroying any animal has been prohibited or restricted by regulations made under section 54, any person convicted in such proceedings of an offence committed by or in connection with the use of the poison in contravention of the regulations commits an offence.

Penalty: Imprisonment for 3 months or a fine at level 1 on the standard scale.

[UK Animals (Cruel Poisons) Act 1962 ss.1 and 2]

Traps

19. Inspection of traps

(1) Any person who sets, or causes or procures to be set, any spring trap for the purpose of catching any animal, or which is so placed as to be likely to catch any animal, must inspect, or cause some competent person to inspect, the trap at reasonable intervals of time and at least once every day between sunrise and sunset.

(2) A person as mentioned in subsection (1) who fails to comply with that subsection commits an offence.

Penalty: A fine at level 1 on the standard scale.

[UK Protection of Animals Act 1911 s.10]

20. Restriction on type of trap

(1) Subject to this section, a person who —

(a) for the purpose of killing or taking animals, uses, or knowingly permits the use of, any trap other than a humane spring cage trap;

(b) sells, or exposes or offers for sale, any trap other than a humane spring cage trap;
or

(c) has any in possession any animal trap other than a humane spring cage trap,

commits an offence.

Penalty: (i) A fine at level 3 on the standard scale: or

(ii) for a second or subsequent offence under this section or section 21, a fine at level 5 on the standard scale.

(2) Subsection (1) does not apply to traps of any description adapted solely for the destruction of rats, mice or other small ground vermin.

[UK Pests Act 1954 s.8 adapted]

21. Open trapping of hares and rabbits

Subject to this section, a person who, for the purpose of killing or taking hares or rabbits, uses, or knowingly permits the use of, a spring trap elsewhere than in a hare form or rabbit hole, commits an offence.

Penalty: (i) A fine at level 3 on the standard scale: or

(ii) for a second or subsequent offence under this section or section 20, a fine at level 5 on the standard scale.

[UK Pests Act 1954 s.9]

Performing animals

22. Prohibition of exhibiting and training performing animals

(1) No person may exhibit or train any performing animal in the Falkland Islands.

(2) Any inspector and any police officer may enter at all reasonable times and inspect any premises in which the inspector or police officer reasonably suspects that animals are being trained or exhibited, or kept for training or exhibition, and any such animals found on the premises.

(3) A person who —

(a) exhibits or trains any performing animal;

(b) obstructs or wilfully delays any inspector or police officer in the execution of powers under subsection (2) as to entry or inspection;

(c) conceals any animal with a view to avoiding such inspection,

commits an offence.

Penalty: A fine at level 3 on the standard scale.

(4) This section does not apply to the training of animals for genuine military, police, agricultural or sporting purposes, or the exhibition of any animals so trained.

[UK Performing Animals (Regulation) Act 1925 ss.3 to 5]

Films

23. Prohibition of films involving cruelty to domestic animals

(1) It is an offence for a person ('A') to exhibit to the public, or supply to any other person for public exhibition (whether by A or by another person), any cinematograph film (whether produced in the Falkland Islands or elsewhere) if in connection with the production of the film any scene represented in the film was organised or directed in such a way as to involve—

(a) the cruel infliction of pain or terror on any domestic animal; or

(b) the cruel goading of any such animal to fury.

(2) In any proceedings under this section in respect of any film —

(a) the court may (without prejudice to any other mode of proof) infer from the film as exhibited to the public or supplied for public exhibition, as the case may be, that a scene represented in the film as so exhibited or supplied was organised or directed in such a way as to involve the cruel infliction of pain or terror on an animal or the cruel goading of an animal to fury; but

(b) (whether the court draws such an inference or not) it is a defence for A to prove that A believed, and had reasonable cause to believe, that no scene so represented was so organised or directed.

(3) A person who contravenes this section commits an offence.

Penalty: Imprisonment for 3 months or a fine at level 3 on the standard scale, or both.

24. Section 23: Supplementary

(1) In section 23, “film” means any medium on which moving images are recorded so that they can be replayed.

(2) For the purposes of section 23, a cinematograph film is deemed to be exhibited to the public when, it is exhibited in a place to which for the time being members of the general public as such have access, whether on payment of money or otherwise, and the expression “public exhibition” is to be construed accordingly.

(3) Nothing in section 23 applies to a film of a steer-riding competition in the Falkland Islands.

[UK Cinematograph Films (Animals) Act 1937 s.1]

Mutilation of domestic animals

25. Mutilation

(1) Subject to subsection (3), a person other than a veterinary surgeon who —

(a) carries out a surgical procedure on a domestic animal; or

(b) causes such a procedure to be carried out on a domestic animal,

commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(2) Subject to subsection (3), a person (‘A’) commits an offence if —

(a) A is responsible for a domestic animal;

(b) another person (‘B’), not being a veterinary surgeon, carries out a surgical procedure on the animal; and

(c) A permitted that to happen or failed to take such steps (whether by way of supervising B or otherwise) as were reasonable in all the circumstances to prevent that happening.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(3) If—

(a) the animal is livestock; and

(b) the surgical procedure is carried out in conformity with a relevant code of practice,

the procedure may be carried out by a person other than a veterinary surgeon.

(4) A veterinary surgeon may carry out a surgical procedure on an animal other than in conformity with a relevant code of practice if the procedure is —

(a) necessary for the purpose of the medical treatment of the animal; and

(b) carried out under appropriate anaesthesia.

(5) For the purpose of this section —

(a) a “surgical procedure” on an animal is a procedure which involves interference with the sensitive tissues or bone structure of the animal;

(b) a “relevant code of practice” is a code of practice for the welfare of livestock issued under section 55, or under the Livestock and Meat Products Ordinance.

[UK Animal Welfare Act 2006 ss.5 and 6 (part) adapted]

26. Docking of dogs’ tails

(1) A veterinary surgeon may only remove the whole or part of a dog’s tail under appropriate anaesthesia.

(2) Contravention of subsection (1) is an offence.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(3) A person commits an offence if the person –

(a) shows a dog at an event to which members of the public are admitted on payment of a fee;

(b) the dog’s tail has been wholly or partly removed (in the Falkland Islands or elsewhere) in contravention of this section; and

(c) removal took place on or after the commencement of this section.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

[UK Animal Welfare Act 2006 s.6 (part) adapted]

Animals fighting

27. Fighting, etc.

(1) It is an offence for a person to —

- (a) cause an animal fight to take place, or attempt to do so;
- (b) knowingly receive money for admission to an animal fight;
- (c) knowingly publicise a proposed animal fight;
- (d) provide information about an animal fight to another with the intention of enabling or encouraging attendance at the fight;
- (e) make or accept a bet on the outcome of an animal fight or on the likelihood of anything occurring or not occurring in the course of an animal fight;
- (f) take part in an animal fight;
- (g) have in the possession of the person anything designed or adapted for use in connection with an animal fight with the intention of its being so used;
- (h) keep or train an animal for use for or in connection with an animal fight; or
- (i) keep any premises for use for an animal fight.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(2) A person who, without lawful authority or reasonable excuse, is present at an animal fight commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(3) A person who, without lawful authority or reasonable excuse —

- (a) knowingly supplies a digital recording of an animal fight;
- (b) knowingly publishes a digital recording of an animal fight;
- (c) knowingly shows a digital recording of an animal fight to another; or
- (d) possesses a digital recording of an animal fight, knowing it to be such a recording, with the intention of supplying it,

commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 7 on the standard scale, or both.

(4) Subsection (3) does not apply if the digital recording is of an animal fight that took place —

- (a) outside the Falkland Islands; or
- (b) before the commencement of this section.

(5) Subsection (3) does not apply —

(a) in the case of paragraph (a), to the supply of a digital recording for inclusion in a programme service;

(b) in the case of paragraph (b) or (c), to the publication or showing of a video recording by means of its inclusion in a programme service;

(c) in the case of paragraph (d), by virtue of intention to supply for inclusion in a programme service.

(6) In this section —

“animal fight” means an occasion on which a domestic animal is placed with an animal, or with a human, for the purpose of fighting, wrestling or baiting;

“programme service” has the same meaning as in the Criminal Procedure and Evidence Ordinance 2014;

“digital recording” means a recording, in any form, from which a moving image may by any means be reproduced and includes data stored on a computer disc or by other electronic means which is capable of conversion into a moving image.

(7) In this section —

(a) references to supplying or publishing a digital recording are to supplying or publishing a digital recording in any manner, including, in relation to a digital recording in the form of data stored electronically, by means of transmitting such data;

(b) references to showing a digital recording are to showing a moving image reproduced from any device capable of digital recording.

[UK Animal Welfare Act 2006 s.8]

28. Seizure of animals involved in fighting offences

(1) An inspector or a police officer may seize an animal if it appears to the inspector or officer that it is one in relation to which an offence under section 27(1) or (2) has been committed.

(2) An inspector or a police officer may enter and search premises for the purpose of exercising the power under subsection (1) if the inspector or officer reasonably believes that—

(a) there is an animal on the premises; and

(b) the animal is one in relation to which the power under subsection (1) is exercisable.

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.

(4) An inspector or a police officer may enter any premises for the purpose of this section with the consent of the owner or occupier or on the authority of a warrant issued under section 38.

(5) In this section, references to an animal in relation to which an offence under section 31(1) or (2) has been committed include an animal which took part in an animal fight in relation to which such an offence was committed.

[UK Animal Welfare Act 2006 s.22]

29. Reimbursement of expenses relating to animals involved in fighting offences

(1) The court by or before which a person is convicted of an offence under section 27(1) or (2) may order the offender or another person to reimburse any expenses incurred by the Crown in connection with the keeping of an animal in relation to which the offence was committed.

(2) In subsection (1), the reference to an animal in relation to which the offence was committed includes an animal which took part in a fight in relation to which the offence was committed.

(3) If an order is made under this section for reimbursement of expenses incurred by the Crown—

(a) the expenses are recoverable summarily as a civil debt;

(b) the person against whom the order is made may appeal against the order to the Supreme Court.

[UK Animal Welfare Act 2006 s.39]

30. Destruction of animals involved in fighting offences

(1) The court by or before which a person is convicted of an offence under section 27(1) or (2) may order the destruction of an animal in relation to which the offence was committed on grounds other than the interests of the animal.

(2) A court may not make an order under subsection (1) unless —

(a) it has given the owner of the animal an opportunity to be heard; or

(b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(3) If a court makes an order under subsection (1), it may —

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);

(d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the offender or another person to reimburse the expenses of carrying out the order.

(4) If a court makes an order under subsection (1) in relation to an animal which is owned by a person other than the offender, that person may appeal against the order to the Supreme Court.

(5) In subsection (1), the reference to an animal in relation to which the offence was committed includes an animal which took part in an animal fight in relation to which the offence was committed.

[UK Animal Welfare Act 2006 s.38]

Non-native and unsuitable animals

31. Prohibition of importing or keeping unsuitable animals

(1) It is an offence for a person to import, for the purpose of keeping, selling or transferring any non-native or unsuitable animal without a licence from the Department of Natural Resources.

Penalty: Imprisonment for 6 months or a fine at level 6 on the standard scale.

[UK Dangerous Wild Animals Act 1976 s.1 adapted]

(2) In this section —

(a) “non-native animal” means any animal which is not indigenous or native to the Falkland Islands;

(b) “unsuitable animal” means an animal prescribed by the Director by order as unsuitable for keeping in the Falkland Islands.

(3) The Director may include in an order under subsection (2)(b) any animal of a species that is invasive and could become predatory in the Falkland Islands, and any animal of any other species that could represent a danger to wildlife or people.

32. Inspection of premises

(1) An inspector or a police officer may inspect any premises where the inspector or officer reasonably suspects that an unsuitable animal is held.

(2) An inspector or a police officer may enter and search premises for the purpose of exercising the power under subsection (1) if the inspector or officer reasonably believes that—

(a) there is an animal on the premises; and

(b) the animal is one in relation to which the power under subsection (1) is exercisable.

(3) Subsection (2) does not authorise entry to any part of premises which is used as a private dwelling.

(4) An inspector or a police officer may enter premises with the consent of the owner or occupier or on the authority of a warrant issued under section 38.

(5) A person who wilfully obstructs or delays any person in the exercise of a power of entry or inspection under this section commits an offence.

Penalty: A fine at level 5 on the standard scale.

[UK Dangerous Wild Animals Act 1976 s.3]

33. Power to seize and to dispose of animals without compensation

(1) If an unsuitable animal is being kept in any place, an inspector or a police officer may seize the animal and deal with it in any manner the Governor directs, including the destruction of the animal, and neither the Crown, the Governor nor any public officer is, subject to the provisions of the Constitution, liable to pay any compensation to any person in respect of the exercise of powers under this subsection.

(2) Any expenditure incurred in the exercise of powers under subsection (1) is recoverable by the Crown as a civil debt from the person who was at the time of the seizure a keeper of the animal concerned.

[UK Dangerous Wild Animals Act 1976 s.4 adapted]

Dogs and cats

34. Identification of dogs and cats

(1) The Governor may by order require any or any specified class or breed of dog or cat to have implanted in it an approved identification device.

(2) A veterinary surgeon may, at the request of the owner or keeper of a dog or cat, whether for compliance with an order under subsection (1) or otherwise, implant in the dog or cat an approved identification device and may for that service charge a fee approved by the Director.

(3) The Director must maintain a register and enter in it particulars —

(a) of every dog and cat in which an approved identification device has been implanted under subsection (1) or (2), whether before or after the commencement of this section;

(b) of the owner and keeper (if any) of the animal; and

(c) of any changes in the owner or keeper of the animal notified to the Director.

(4) The register may, if the Director so determines, be kept in electronic form.

(5) In this section, “approved identification device” means —

(a) a microchip, enabling the animal in which it is implanted to be identified by being electronically scanned by a suitable scanning device; and

(b) any other device, approved by the Director, implanted in an animal, whereby the animal may readily be identified by the use of suitable equipment.

[Animals (Amendment) Ordinance ss.2 (part) and 3]

35. Seizure and destruction of stray dogs and cats

(1) The Director and any inspector or police officer may seize any dog or cat which is a stray, that is to say, and dog or cat —

(a) that is found by any person wandering abroad and not apparently under the control of any other person; and

(b) that the Director or inspector or police officer reasonably believes to have been abandoned or neglected by its owner or keeper or to be feral, i.e. existing in a wild state,

and take it to a place authorised by the Director for its detention.

(2) A stray may be detained in an authorised place until —

(a) it is claimed by a person who shows himself or herself to be the animal's owner or keeper; or

(b) it is —

(i) allocated to a new keeper; or

(ii) humanely destroyed in accordance with subsection (8), (9) or (10).

(3) As soon as possible after it has been seized, a stray must be examined by the person seizing it to ascertain whether its owner or keeper can be identified, whether by means of an approved identification device, collar or tag that it bears or otherwise.

(4) If as a result of the examination of a stray in accordance with subsection (3) the owner or keeper of the stray is identified, the person examining the stray must notify, or ensure that some other public officer notifies, the owner or keeper of the detention of the stray.

(5) Notification under subsection (4) must be done by the quickest means which is both practicable and reasonable at any place in the Falkland Islands where the owner or keeper of the stray is known to be likely to be found and otherwise at that person's last known address in the Falkland Islands.

(6) If the stray is a dog the owner or keeper of which is not identified on examination under subsection (3), the person examining the dog must cause, or ensure that some other public officer causes, notification of the seizure of the dog to be made through any appropriate media.

(7) A notification under subsection (6) must include —

(a) a description of the dog;

(b) a statement of the place where and time at which it was seized; and

(c) a statement as to where and how, and the time within which, the dog may be claimed.

(8) A dog may be —

(a) allocated a new keeper; or

(b) humanely destroyed by a veterinary surgeon or by a person authorised by a veterinary surgeon,

if its owner or keeper does not claim it within 72 hours of the notification under subsection (4) or (6), whichever in the circumstances of the case is appropriate.

(9) A cat —

(a) the owner or keeper of which is not identified on examination of the cat in accordance with subsection (3); or

(b) which is not claimed by its owner or keeper or his or her agent within 72 hours of notification under subsection (4),

may be humanely destroyed by a veterinary surgeon or by a person authorised by a veterinary surgeon.

(10) Notwithstanding the previous subsections, a stray may be humanely destroyed at once by or on the authority of a veterinary surgeon if the veterinary surgeon reasonably believes that the stray is, or may be, suffering from —

(a) rabies; or

(b) any other disease that is —

(i) communicable to human beings;

(ii) if so communicated, may be fatal; and

(iii) has been specified for the purposes of this subsection by an order under subsection (11).

(11) The Governor may, by order under this section, extend the application of subsection (10) so that the power to humanely destroy a stray at once in circumstances specified in that subsection in relation to rabies extends also to any disease specified in the order; but an order under this section may only specify a disease which the Governor believes may be fatal to a human being if communicated to him or her.

(12) A person claiming a dog or cat which has been seized as a stray may be required by the Director to pay to the Crown a sum that represents the reasonable cost of seizure of the animal and of detaining it and the sum so required is recoverable by the Crown as a civil debt due to the Crown.

[Animals (Amendment) Ordinance ss.4 and 6]

36. Dogs and cats: Inspection powers

(1) An inspector may at any reasonable time on 48 hours' notice to the occupier of any premises in which the inspector reasonably believes that any dog or cat is in need of treatment or is being caused unnecessary suffering —

(a) enter and inspect the premises;

(b) cause any dog or cat kept on the premises to be produced to the inspector;

(c) on the premises treat any such animal if the inspector considers it to be in need of treatment;

(d) take away any such animal if the inspector considers that, in the circumstances of the case, it ought sensibly to be treated elsewhere; and

(e) humanely destroy any such animal on those premises which the inspector reasonably believes has any disease or affliction which —

(i) cannot practicably be treated; and

(ii) is causing the animal substantial pain or suffering.

(2) An inspector may enter premises with the consent of the owner or occupier or on the authority of a warrant issued under section 38.

[Animals (Amendment) Ordinance s.5 adapted]

PART 4 – ENFORCEMENT POWERS

Inspection

37. Inspection powers generally

- (1) An inspector may require the holder of a licence issued under this Ordinance to produce for inspection any records which the holder is required to keep as a condition of the licence.
- (2) If records which a person is required to keep are stored in electronic form, the power under subsection (1) includes power to require the records to be made available for inspection in —
 - (a) a visible and legible form; or
 - (b) a form from which they can readily be produced in a visible and legible form.
- (3) An inspector may inspect and take copies of any records produced for inspection pursuant to a requirement under this section.
- (4) An inspector may carry out an inspection in order to check compliance with —
 - (a) the conditions subject to which a licence is granted;
 - (b) provision made by or under this Ordinance which is relevant to the carrying on of an activity to which a licence relates.
- (5) An inspector may, for the purpose of carrying out an inspection under subsection (4), enter —
 - (a) premises specified in a licence as premises on which the carrying on of an activity is authorised;
 - (b) premises on which the inspector reasonably believes an activity to which a licence relates is being carried on.
- (6) Subsection (5) does not authorise entry to any part of premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier.
- (7) An inspector may carry out an inspection in order to —
 - (a) check compliance with regulations which relate to animals bred or kept for farming purposes;
 - (b) ascertain whether any offence under or by virtue of this Ordinance has been or is being committed in relation to such animals.
- (8) An inspector may enter premises which he or she reasonably believes to be premises on which animals are bred or kept for farming purposes in order to carry out an inspection under subsection (7).

(9) Subsection (8) does not authorise entry to any part of premises which is used as a private dwelling.

(10) An inspector or police officer may enter any premises for the purpose of this section with the consent of the owner or occupier or on the authority of a warrant issued under section 38.

[UK Animal Welfare Act 2006 ss.25, 26 and 28]

38. Entry and search under warrant in connection with offences

(1) Subject to subsection (2), a justice of the peace may, on the application of an inspector or a police officer, issue a warrant authorising an inspector or a police officer to enter premises, at any reasonable hour, accompanied by any person or persons authorised by the warrant, and if necessary using reasonable force, in order to search for evidence of the commission of an offence under this Ordinance.

(2) The power to issue a warrant under subsection (1) is exercisable only if the justice of the peace is satisfied that —

(a) there are reasonable grounds for believing that —

(i) an offence under this Ordinance has been committed on the premises; or

(ii) evidence of the commission of an offence under this Ordinance is to be found on the premises; and

(b) section 39 is satisfied in relation to the premises.

(3) Section 22 of the Criminal Procedure and Evidence Ordinance 2014 (power of police officer to enter and search premises for purpose of arresting a person) applies to an offence under this Ordinance as if this Ordinance were expressly added to the list of provisions in that section.

(4) A person who wilfully hinders or obstructs the lawful execution of a warrant issued under subsection (1) by an inspector or police officer or any person authorised by that warrant to accompany the inspector or police officer, commits an offence.

Penalty: Imprisonment for 6 months or a fine at level 5 on the standard scale, or both.

[UK Animal Welfare Act 2006 ss.23 and 24 adapted]

39. Conditions for issue of warrant

(1) This section is satisfied in relation to premises if any of the following 4 conditions is met.

(2) The first condition is that the whole of the premises is used as a private dwelling and the occupier has been informed of the decision to apply for a warrant.

(3) The second condition is that any part of the premises is not used as a private dwelling and that the occupier of the premises has —

(a) been informed of the decision to seek entry to the premises and of the reasons for that decision;

(b) failed to allow entry to the premises on being requested to do so by an inspector or a police officer; and

(c) been informed of the decision to apply for a warrant.

(4) The third condition is that —

(a) the premises are unoccupied or the occupier is absent; and

(b) notice of intention to apply for a warrant has been left in a conspicuous place on the premises.

(5) The fourth condition is that it is inappropriate to inform the occupier of the decision to apply for a warrant because —

(a) it would defeat the object of entering the premises; or

(b) entry is required as a matter of urgency.

[UK Animal Welfare Act 2006 s.52]

Disqualification and deprivation

40. Orders with respect to licences

(1) If a person is convicted of an offence under this Ordinance, the court by or before which the person is convicted may, instead of or in addition to dealing with the person in any other way, make an order —

(a) cancelling any licence held by the person;

(b) disqualifying the person, for a period it thinks fit, from holding a licence.

(2) The court by which an order under subsection (1)(b) is made may —

(a) specify a period during which the offender may not make an application under section 42(1) for termination of the order;

(b) suspend the operation of the order pending an appeal.

[UK Animal Welfare Act 2006 s.42; Dangerous Wild Animals Act 1976 s.6]

41. Disqualification generally

(1) If a person is convicted of an offence under this Ordinance, the court by or before which the person is convicted may, instead of or in addition to dealing with the person in any other way, make an order disqualifying the person for a period the court thinks fit.

(2) Disqualification may be imposed on a person from taking part in one or more, or all, of the following (as specified in the order) —

- (a) owning animals;
- (b) keeping animals;
- (c) participating in the keeping of animals;
- (d) being party to an arrangement under which the person is entitled to control or influence the way in which animals are kept;
- (e) dealing in animals;
- (f) transporting animals; or
- (g) arranging for the transport of animals.

(3) Disqualification under subsection (1) may be imposed in relation to animals generally, or in relation to animals of one or more kinds.

(4) The court by which an order under subsection (1) is made may specify a period during which the offender may not make an application under section 42 (1) for termination of the order.

(5) The court by which an order under subsection (1) is made may —

- (a) suspend the operation of the order pending an appeal; or
- (b) if it appears to the court that the offender owns or keeps an animal to which the order applies - suspend the operation of the order for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the animal.

(6) If a court decides not to make an order under subsection (1) in relation to an offender, it must—

- (a) give its reasons for the decision in open court; and
- (b) cause them to be entered in the register of its proceedings.

(7) A person who breaches a disqualification imposed by an order under subsection (1) commits an offence.

Penalty: Imprisonment for 12 months or a fine at level 5 on the standard scale, or both.

[UK Animal Welfare Act 2006 s.34 adapted]

42. Termination of disqualification under section 40 or 41

(1) A person who is disqualified by virtue of an order under section 40 or 41 may apply to the appropriate court for the termination of the order.

- (2) No application under subsection (1) may be made —
- (a) within a year of the order being made;
 - (b) if a previous application under that subsection has been made in relation to the same order - within a year of the previous application being decided.
 - (c) before the end of any period specified under subsection (5) in relation to the order.
- (3) On an application under subsection (1), the court may —
- (a) terminate the disqualification;
 - (b) vary the disqualification so as to make it less onerous; or
 - (c) refuse the application.
- (4) When deciding an application under subsection (1), the court must have regard to the character of the applicant, the applicant's conduct since the imposition of the disqualification and any other circumstances of the case.
- (5) If the court refuses an application under subsection (1), it may specify a period during which the applicant may not make a further application under that subsection in relation to the order concerned.
- (6) The court may order an applicant under subsection (1) to pay all or part of the costs of the application.
- (7) In subsection (1), the reference to the appropriate court is to —
- (a) the court which made the order under section 40 or 41; or
 - (b) in the case of an order made by the Magistrate's Court – that court or the Summary Court.

[UK Animal Welfare Act 2006 s.43 adapted]

43. Seizure of animals in connection with disqualification

- (1) If—
- (a) a court makes an order under section 41(1); and
 - (b) it appears to the court that the person to whom the order applies owns or keeps any animal contrary to the disqualification imposed by the order,

the court may order that all animals the person owns or keeps contrary to the disqualification be taken into possession.

(2) If a person is convicted of an offence under section 41(7) because of owning or keeping an animal in breach of disqualification under section 41(1), the court by or before which the person is convicted may order that all animals the person owns or keeps in breach of the disqualification be taken into possession.

(3) An order under subsection (1) or (2), so far as relating to any animal owned by the person subject to disqualification, has effect as an order for the disposal of the animal.

(4) Any animal taken into possession pursuant to an order under subsection (1) or (2) that is not owned by the person subject to disqualification must be dealt with in the manner the appropriate court may order.

(5) A court may not make an order for disposal under subsection (4) unless it —

(a) has given the owner of the animal an opportunity to be heard; or

(b) is satisfied that it is not reasonably practicable to communicate with the owner.

(6) If a court makes an order under subsection (4) for the disposal of an animal, the owner may appeal against the order to the Supreme Court.

(7) In subsection (4), the reference to the appropriate court is to —

(a) the court which made the order under subsection (1) or (2); or

(b) in the case of an order made by the Magistrate's Court – that court or the Summary Court.

(8) In this section, references to disposing of an animal include destroying it.

[UK Animal Welfare Act 2006 s.35]

44. Deprivation orders

(1) If the person convicted of an offence under this Ordinance is the owner of an animal in relation to which the offence was committed, the court by or before which the person is convicted may, instead of or in addition to dealing with the person in any other way, make an order depriving the person of ownership of the animal and for its disposal.

(2) If the animal in respect of which an order under subsection (1) is made has any dependent offspring, the order may include provision depriving the person to whom it relates of ownership of the offspring and for its disposal.

(3) If a court makes an order under subsection (1) or (2), it may —

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order;

(d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the offender to reimburse the expenses of carrying out the order.

(4) Directions under subsection (3)(c) may —

(a) specify the manner in which an animal is to be disposed of; or

(b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (3)(a).

(5) If a court decides not to make an order under subsection (1) or (2) in relation to an offender, it must —

(a) give its reasons for the decision in open court; and

(b) cause them to be entered in the register of its proceedings.

(6) In subsection (1), the reference to an animal in relation to which an offence was committed includes, in the case of an offence under section 27, an animal which took part in an animal fight in relation to which the offence was committed.

(7) In this section, references to disposing of an animal include destroying it.

[UK Animal Welfare Act 2006 s.33]

45. Destruction in the interests of the animal

(1) The court by or before which a person is convicted of any offence under this Ordinance may order the destruction of an animal in relation to which the offence was committed if it is satisfied, on the basis of evidence given by the Senior Veterinary Officer, that it is appropriate to do so in the interests of the animal.

(2) A court may not make an order under subsection (1) unless it —

(a) has given the owner of the animal an opportunity to be heard; or

(b) is satisfied that it is not reasonably practicable to communicate with the owner.

(3) If a court makes an order under subsection (1), it may —

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);

(d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the offender or another person to reimburse the expenses of carrying out the order.

(4) If a court makes an order under subsection (1), the offender and, if different, the owner of the animal may appeal against the order to the Supreme Court;

(5) Subsection (4) does not apply if the court by which the order is made directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

(6) In subsection (1), the reference to an animal in relation to which an offence was committed includes, in the case of an offence under section 27(1) or (2) (fighting), an animal which took part in an animal fight in relation to which the offence was committed.

[UK Animal Welfare Act 2006 s.37]

46. Sections 43 to 45: Supplementary provisions

(1) The court by which an order under any of sections 43 to 45 is made may —

(a) appoint a person to carry out, or arrange for the carrying out of, the order;

(b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;

(c) give directions with respect to the carrying out of the order;

(d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;

(e) order the person subject to disqualification, or another person, to reimburse the expenses of carrying out the order.

(2) Directions under subsection (1)(c) may —

(a) specify the manner in which an animal is to be disposed of; or

(b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (1)(a).

(3) In deciding how to exercise its powers under sections 43 to 45 and this section, the court must have regard, amongst other things, to —

(a) the desirability of protecting the value of any animal to which the order applies; and

(b) the desirability of avoiding increasing any expenses which a person may be ordered to reimburse.

(4) In deciding how to exercise a power delegated under subsection (2)(b), a person must have regard, amongst other things, to the things mentioned in subsection (3)(a) and (b).

(5) If the owner of an animal ordered to be disposed of under section 43, 44 or 45 is subject to a liability by virtue of subsection (1)(e), any amount to which the person is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

[UK Animal Welfare Act 2006 s.36]

47. Forfeiture of equipment used in offences

(1) If a person is convicted of an offence under this Ordinance, the court by or before which the person is convicted may order any qualifying item which is shown to the satisfaction of the court to relate to the offence to be —

(a) forfeited; and

(b) destroyed or dealt with in a manner specified in the order.

(2) The reference in subsection (1) to a qualifying item is —

(a) in the case of a conviction for an offence under section 6 - to anything designed or adapted for causing suffering to an animal;

(b) in the case of a conviction for an offence under any of sections 16 to 18 - to anything designed or adapted for administering any poison or drug or substance to an animal;

(c) in the case of a conviction for an offence under section 25 - to anything designed or adapted for carrying out a surgical procedure on an animal;

(d) in the case of a conviction for an offence under section 26 in relation to a dog's tail - to anything designed or adapted for removing the whole or any part of a dog's tail;

(e) in the case of a conviction for an offence under section 27(1) or (2) - to anything designed or adapted for use in connection with an animal fight;

(f) in the case of a conviction for an offence under section 27(3) - to a video recording of an animal fight, including anything on or in which the recording is kept.

(3) The court must not order anything to be forfeited under subsection (1) if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless the person has been given an opportunity to show cause why the order should not be made.

(4) An expression used in any of paragraphs (a) to (f) of subsection (2) has the same meaning as in the provision referred to in that paragraph.

(5) This section does not limit the power of a court to make a deprivation order under section 44 of this Ordinance or under section 617 of the Criminal Procedure and Evidence Ordinance 2014.

[UK Animal Welfare Act 2006 s.40]

48. Orders under sections 43 to 47: Pending appeals

(1) Nothing may be done under an order under any of sections 43 to 47 with respect to an animal, unless —

- (a) any period for giving notice of appeal against the order has expired;
- (b) the period for giving notice of appeal against the conviction on which the order was made has expired; and
- (c) if the order or conviction is the subject of an appeal - the appeal has been determined or withdrawn.

(2) If the effect of an order is suspended under subsection (1) —

- (a) no requirement imposed or directions given in connection with the order has effect; but
- (b) the court may give directions about how any animal to which the order applies is to be dealt with during the suspension.

(3) Directions under subsection (3)(b) may, in particular —

- (a) authorise the animal to be taken into possession;
- (b) authorise the removal of the animal to a place of safety;
- (c) authorise the animal to be cared for either on the premises where it was being kept when it was taken into possession or at some other place;
- (d) appoint a person to carry out, or arrange for the carrying out, of the directions;
- (e) require any person who has possession of the animal to deliver it up for the purposes of the directions;
- (f) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the directions;
- (g) provide for the recovery of any expenses in relation to removal or care of the animal which are incurred in carrying out the directions.

(5) Any expenses a person is directed to pay under subsection (4)(g) are recoverable summarily as a civil debt.

(6) If the effect of an order under section 44 (Deprivation) is suspended under subsection (1) the person to whom the order relates may not sell or part with any animal to which the order applies.

(7) A person who fails to comply with subsection (6) commits an offence.

Penalty: Imprisonment for 6 months or a fine at level 4 on the standard scale.

[UK Animal Welfare Act 2006 s.41]

Enforcement generally

49. Time limits for prosecutions

A prosecution for an offence under this Ordinance must be brought —

(a) within 3 years after the commission of the offence; and

(b) within 6 months after the date on which evidence which the prosecution thinks is sufficient to justify the proceedings comes to the knowledge of the prosecution.

[UK Animal Welfare Act 2006 s.31; Game Act 1831 s.41]

50. Power to stop and detain vehicles

(1) A police officer in uniform or, if accompanied by such a police officer, an inspector may stop and detain a vehicle for the purpose of entering and searching it in the exercise of a power conferred in relation to premises —

(a) by section 13(1); or

(b) by a warrant under section 48.

(2) A police officer in uniform may stop and detain a vehicle for the purpose of entering and searching it in the exercise of a power conferred by —

(a) section 28(1); or

(b) a warrant under section 38.

(3) If accompanied by a police officer in uniform, an inspector may stop and detain a vehicle for the purpose of entering it and carrying out an inspection in the exercise of a power conferred by—

(a) section 37; or

(b) a warrant under section 38.

(4) A vehicle may be detained for as long as is reasonably required to permit a search or inspection to be carried out (including the exercise of any related power under this Ordinance either at the place where the vehicle was first detained or nearby.

[UK Animal Welfare Act 2006 s.54]

51. Power to detain vessels and aircraft

(1) If an inspector or a police officer certifies in writing that he or she is satisfied that an offence under this Ordinance is being or has been committed on board a vessel in port or a landed aircraft, the vessel or aircraft may be detained.

(2) A certificate under subsection (1) must —

(a) specify each offence to which it relates; and

(b) set out the inspector's or officer's reasons for being satisfied that each offence to which it relates is being or has been committed.

(3) An officer who detains a vessel or aircraft in reliance on a certificate under subsection (1) must as soon as reasonably practicable give a copy of it to the master or person in charge of the vessel or aircraft.

(4) A vessel or aircraft may be detained under subsection (1) until the Governor otherwise directs.

(5) The Governor may by regulations make such other provision for the detention of vessels or aircraft in relation to offences under or by virtue of this Ordinance as the Governor thinks fit.

[UK Animal Welfare Act 2006 s.55 adapted]

52. Obtaining of documents in connection with carrying out orders, etc.

(1) If —

(a) an order is made or directions are given under this Ordinance for the deprivation, taking into possession, seizure or destruction of an animal is in effect; and

(b) documents which are relevant to the carrying out of the order or directions are in the possession or under the control of the owner of the animal,

the owner must, if so required by a person authorised to carry out the order, deliver the documents to that person as soon as practicable and in any event within 10 days after the owner is notified of the requirement.

(2) A person who fails without reasonable excuse to comply with subsection (1) commits an offence.

Penalty: Imprisonment for 6 months or a fine at level 4 on the standard scale.

[UK Animal Welfare Act 2006 s.56 adapted]

PART 5 – MISCELLANEOUS PROVISIONS

53. Service of documents

(1) Any notice or other document required or authorised by this Ordinance to be served on any person may be served by —

- (a) delivering it to the person;
- (b) leaving it at the person's usual or last known address (whether residential or otherwise);
- (c) sending it to the person by post at that address; or
- (d) sending it to the person by electronic means, if the person has facilities to receive such communications.

(2) Any notice or other document so required or authorised to be served on a corporate body is duly served on it if served on the secretary or clerk of the body.

(3) For the purposes of this section, the proper address of any person is, in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body, and in any other case the last address of the person to be served which is known to the Governor.

(4) This section does not affect section 9 of the Interpretation and General Clauses Ordinance 1977 relating to service by post.

[Revision w.e.f. 31/07/2017]

54. Regulations

(1) The Governor may by regulations make further provision about any matter provided for in this Ordinance.

(2) The regulations may include, but are not limited to, provisions regulating —

- (a) the functions and powers of inspectors;
- (b) the use of poisons to destroy animals;
- (c) the need for and issuing of licences for prescribed purposes.

(3) If the regulations include provisions relating to licences, they may include provisions —

- (a) to require persons to hold a licence for specified activities in relation to animals;
- (b) to prescribe —
 - (i) the form of an application for a licence;

- (ii) the particulars to be provided in an application for a licence;
 - (iii) the fees payable for the issue of licences; or
 - (iv) the conditions that may be attached to a licence; or
- (c) that breach of a condition of a licence or of the regulations is an offence.
- (4) Power to make regulations under this section includes power —
- (a) to provide that breach of a regulation is an offence carrying a maximum penalty of 6 months imprisonment or a fine at level 5 on the standard scale, or both;
 - (b) to apply relevant post-conviction powers in relation to convictions for an offence under the regulations;
 - (c) to make provision for fees or other charges in relation to the carrying out of functions under the regulations;
 - (d) to make different provision for different cases or areas;
 - (e) to provide for exemptions from a provision of the regulations, either subject to specified conditions or without conditions;
 - (f) to provide for any other matter needed to give effect to this Ordinance;
 - (g) to make incidental, supplementary, consequential or transitional provision or savings.
- (5) Before making regulations under this section, the Governor must publish a draft of the regulations for public consultation.

[UK Animal Welfare Act 2006 ss.6 and 12 (part)]

55. Codes of practice

- (1) The Senior Veterinary Officer may issue (and from time to time revise) one or more codes of practice for the purpose of providing practical guidance in respect of provision made by (or under) this Ordinance.
- (2) A code of practice may include practical guidance relating to provision for the welfare of animals made by (or under) the Livestock and Meat Products Ordinance 2010.
- (3) Codes of practice that were in force immediately before the relevant date continue to have effect until they are revised or replaced.
- (4) If the Senior Veterinary Officer proposes to issue or revise a code of practice, the Senior Veterinary Officer must publish a draft of the code for public consultation (“**a consultation**”), specifying -
 - (a) whether it is a new code or a replacement for an existing one;

- (b) the purpose of the new or revised code;
- (c) in the case of a revised code, information about changes from the code being revised;
- (d) the date on which it is proposed that the new or revised code is to come into force; and
- (e) how (and by when) representations may be made to be considered as part of the consultation.

(5) The Senior Veterinary Officer may rely for the purposes of this section on a consultation that takes place before the relevant date.

(6) Following consultation, the Senior Veterinary Officer may issue the new or revised code, either in the form of the draft or amended as the Senior Veterinary Officer thinks fit.

(7) A new or revised code comes into force on a date specified in a notice issued by the Senior Veterinary Officer and published in the *Gazette*.

(8) The Senior Veterinary Officer must publish the codes.

(9) In proceedings against a person for an offence to which a code of practice is relevant, the court must take into consideration evidence as to the extent to which that person has (or has not) complied with that code.

(10) In this section, “**the relevant date**” is the date on which section 4 of the Animals and Livestock (Amendment) Ordinance 2022 comes into force.

[UK Animal Welfare Act 2006 s.14 and reg. 4 of the Livestock & Meat Products (Welfare of Livestock) Regulations]

[s. 4/Ord. 7/22/w.e.f. 03/05/22]

56. Amendment of Schedule

(1) The Governor may by order amend the Schedule to this Ordinance.

(2) An order under subsection (1) —

(a) may make such transitional and consequential provision as appears to the Governor to be necessary or expedient; and

(b) requires the approval of the Legislative Assembly.

[UK Dangerous Wild Animals Act 1976 s.8]

57. Repeal of laws

The Animals (Amendment) Ordinance 1997 (“the repealed Ordinance”) is repealed.

[Revision w.e.f. 31/07/2017]

58. Savings

(1) Subject to subsection (4), all items of subsidiary legislation made under the repealed Ordinance continue in force as if made under the corresponding provision of this Ordinance until amended or replaced under this Ordinance.

(2) If there is no corresponding provision of this Ordinance under which an item of subsidiary legislation referred to in subsection (1) could be made or the item is repealed, as the case may be, except that it continues to have effect in relation to proceedings that had commenced before the repeal provided by section 59.

(3) Any legislative instrument made by a person under the repealed Ordinance which could be made or issued by an equivalent person under this Ordinance continues to have effect as if made or issued by that person under this Ordinance until varied or revoked under this Ordinance.

(4) Any delegation, direction, exemption, notice or other non-legislative instrument made or issued by any person under the repealed Ordinance which could be made or issued by an equivalent person under this Ordinance continues to have effect as if made or issued by that person under this Ordinance until varied or revoked under this Ordinance.

59. Transitional provisions

(1) A disqualification of a person convicted of cruelty to animals imposed under the Protection of Animals Act 1911 as amended, and as applied to the Falkland Islands before the commencement of this Part, is deemed to be a disqualification imposed under section 41 of this Ordinance and section 42 applies to such a disqualification.

(2) Any criminal or civil proceedings under the repealed Ordinance that were in progress at the date of commencement of this Part must continue as if this Part had not been enacted.

(3) The Governor may by order make such other transitional provision or savings as the Governor considers necessary or expedient in connection with the coming into force of any provision of this Ordinance.

(4) The power under subsection (1) includes power to make different provision for different cases.

[UK Animal Welfare Act 2006 s.58 adapted]

60. Consequential amendments – Schedule

(1) The Ordinance listed in column 1 of the Schedule is amended in the manner set out in column 2 of the Schedule.

(2) A reference in any other enactment to the repealed Ordinance is, to the extent possible, to be read as a reference to the corresponding provision of this Ordinance.

61. Crown application

(1) Subject to the provisions of this section, this Ordinance binds the Crown.

(2) No contravention by the Crown of any provision of or under this Ordinance makes the Crown criminally liable; but the Supreme Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding subsection (1), the provisions of this Ordinance apply to persons in the service of the Crown as they apply to other persons.

(4) If the Governor certifies that it appears to him or her appropriate in the interests of national security that powers of entry conferred by or under this Ordinance should not be exercisable in relation to premises held or used by or on behalf of the Crown and specified in the certificate, those powers are not exercisable in relation to those premises.

(5) In this section, “national security” has the meaning given to that term in section 2 of the Criminal Procedure and Evidence Ordinance 2014;

[UK Animal Welfare Act 2006 s.60]

SCHEDULE
(section 60)

...

[Revision w.e.f. 31/07/2017]