

LEGISLACIÓN INGLESA Y **NORTEAMERICANA:**

DERECHO ANIMAL

Derecho Animal
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4º Derecho
Grupo 1

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1.DECLARACIÓN UNIVERSAL DE DERECHOS DEL ANIMAL

La declaración, proclamada el 15 de octubre de 1978, fue aprobada por la Organización de la Naciones Unidas para la Educación, la Ciencia y la Cultura (UNESCO), y posteriormente por la Organización de las Naciones Unidas (ONU).

Preámbulo

Considerando que todo Animal posee derechos.

Considerando que el desconocimiento y desprecio de dichos derechos han conducido y siguen conduciendo al hombre a cometer crímenes contra la naturaleza y contra los Animales.

Considerando que el reconocimiento por parte de la especie humana de los derechos de la existencia de las otras especies de Animales constituye el fundamento de la coexistencia de las especies en el mundo.

Considerando que el hombre comete genocidio y existe la amenaza de que siga cometiéndolo.

Considerando que el respeto de los Animales por el hombre está ligado al respeto de los hombres entre ellos mismos. Considerando que la educación debe enseñar, desde la infancia, a observar, comprender, respetar y amar a los Animales.

Se proclama lo siguiente:

Artículo 1

Todos los Animales nacen iguales ante la vida y tienen los mismos derechos a la existencia.

Artículo 2

a) Todo Animal tiene derecho al respeto.

b) El hombre, en tanto que especie animal, no puede atribuirse el derecho a exterminar a los otros animales o de explotarlos violando ese derecho. Tiene la obligación de poner sus conocimientos al servicio de los Animales.

c) Todos los Animales tienen derecho a la atención, a los cuidados y a la protección del hombre.

Artículo 3

a) Ningún Animal será sometido a malos tratos ni a actos crueles.

b) Si es necesaria la muerte de un Animal, ésta debe de ser instantánea, indolora y no generadora de angustia.

Artículo 4

a) Todo Animal perteneciente a una especie salvaje tiene derecho a vivir libre en su propio ambiente natural, terrestre, aéreo o acuático, y a reproducirse.

b) Toda privación de libertad, incluso aquella que tenga fines educativos, es contraria a ese derecho.

Artículo 5

- a) Todo Animal perteneciente a una especie que viva tradicionalmente en el entorno del hombre, tiene derecho a vivir y a crecer al ritmo y en condiciones de vida y de libertad que sean propias de su especie.
- b) Toda modificación de dicho ritmo o dichas condiciones que fuera impuesta por el hombre con fines mercantiles es contraria a ese derecho.

Artículo 6

Todo Animal que el hombre ha escogido como compañero tiene derecho a que la duración de su vida sea conforme a su longevidad natural.

Artículo 7

Todo Animal de trabajo tiene derecho a una limitación razonable del tiempo e intensidad de trabajo, a una alimentación reparadora y al reposo.

Artículo 8

- a) La experimentación animal **que implique un sufrimiento físico o psicológico es incompatible con los derechos del animal**, tanto si se trata de experimentos médicos, científicos, comerciales, como toda otra forma de experimentación.
- b) Las técnicas alternativas deben ser utilizadas y desarrolladas.

Artículo 9

Cuando un Animal es criado para la alimentación, debe ser nutrido, instalado y transportado, así como sacrificado, sin que ello resulte para él motivo de ansiedad o dolor.

Artículo 10

- a) Ningún Animal debe de ser explotado para esparcimiento del hombre.
- b) Las exhibiciones de animales y los espectáculos que se sirven de Animales son incompatibles con la dignidad del Animal.

Artículo 11

Todo acto que implique la muerte de un Animal sin necesidad es un biocidio, es decir, un crimen contra la vida.

Artículo 12

- a) Todo acto que implique la muerte de un gran número de animales es un genocidio, es decir, un crimen contra la especie.

b) La contaminación y la destrucción del ambiente natural conducen al genocidio.

Artículo 13

a) Un Animal muerto debe ser tratado con respeto.

b) Las escenas de violencia en las cuales los animales son víctimas deben ser prohibidas en el cine y en la televisión salvo si tiene como fin el dar muestra de los atentados contra los derechos del animal.

Artículo 14

a) Los organismos de protección y salvaguarda de los Animales deben ser representados a nivel gubernamental.

b) Los derechos del animal deben ser defendidos por la ley, como lo son los derechos del hombre.

El punto de partida que hemos escogido, se concreta en la declaración universal de derechos del animal. Al situarnos frente a la misma, nos encontramos ante lo que debería ser un Código de conducta y de respeto hacia TODOS los animales, nos encontramos ante una declaración universal, que debería ser tomada como punto de partida, por cada una de las legislaciones estatales, por cuanto si bien en cada uno de los Estados existen individuos, que son conscientes a título individual de la existencia de tales derechos y una reducida parte de ellos lucha por su reconocimiento, es necesario que se produzca un reconocimiento jurídico estatal e internacional de los mismos, para que no se reduzcan a una mera declaración formal.

Dicho de otra manera, no es suficiente con que interiormente desde una perspectiva moral, tales derechos tengan cabida, sino que es eminentemente necesario, que tal reconocimiento se exteriorice concretándose en una perspectiva jurídica, porque en caso contrario, la declaración universal de derechos humanos, no ostenta relevancia alguna, reduciéndose a ser papel mojado.

Sin embargo, como **EL DERECHO DE LOS ANIMALES**, de momento no se va a encontrar protegido por lo que debería ser, sino por lo que efectivamente es, debemos de una vez partir de la perspectiva real, para determinar si tal declaración de derechos del animal no es más que papel mojado.

No obstante, existen legislaciones que han actuado, para que tal perspectiva se modifique y que, deben ser tomadas como modelo, y precisamente, son en tales modelos, en los que nos vamos a centrar, en tanto en cuanto, son **pioneros, por descubrir la regulación jurídica del derecho de los animales, esto es, Estados Unidos y Reino Unido.**

2. NACIMIENTO DEL DERECHO DE LOS ANIMALES EN ESTADOS UNIDOS Y REINO UNIDO. EVOLUCIÓN.

2.1.Raíces del derecho de bienestar animal.

El movimiento del derecho de bienestar animal, ostenta fuertes raíces filosóficas e ideológicas tan antiguas como la humanidad. Sin embargo, nuestro propósito no se concreta en una búsqueda exhaustiva de todas y cada una de las influencias históricas del derecho animal, sino que por el contrario, estimamos relevante, acoger aquellos pensamientos que de forma más inmediata, según nuestro criterio, han influido en el derecho de los Animales en la actualidad, y que a su vez, paralelamente, inciden en el actual derecho de los animales.

En este sentido, consideramos oportuno hablar sobre:

2.1A) JEREMY BENTHAM(1748-1832)

El filósofo Jeremy Bentham defendió que los animales, ostentan significación moral, rechazando así, postulaciones de aquellos que, como Kant y Locke afirmaban que los animales carecen de significación moral alguna.

La teoría de Bentham- el principio de tratamiento humano, que nos impone el que tenemos la obligación directa de no causar a los animales sufrimientos innecesarios- representó el giro más ultradiámetro, en el estatuto moral que se había conferido a los animales. Así, con anterioridad a Bentham, no existía ningún punto de vista aceptado acerca de los intereses de los animales eran moralmente significativos o acerca de que los humanos tenían obligación moral alguna que directamente debían a los animales. La teoría de Bentham, se convirtió en ampliamente aceptada e incontrovertida incorporándose a la regulación del bienestar de los animales, que defienden efectivamente el derecho de los animales, y pretenden prohibir su sufrimiento innecesario". En tanto, que para Bentham la capacidad DE SENTIR, era la única característica que debía tomarse en consideración, de forma elemental, en el marco de la significación moral " *Un caballo o un perro adultos, son más allá de toda comparación, animales racionales, así como también con mayor capacidad de comunicación, que un niño de un día, de una semana o, incluso, de un mes. Pero supongamos que esto no fuera así: ¿de qué serviría? El asunto no es ¿pueden razonar? Ni, tampoco, ¿pueden hablar? Sino, ¿pueden sufrir?"* [Bentham (1781), capítulo XVII, sección IV, pp. 310-1]

2.1.B) PETER SINGER(1946) (continuador del pensamiento impulsado por Jeremy Bentham) autor de un libro extraordinariamente influyente en 1975, que ha sido considerado como la Biblia del movimiento de liberación animal, llamado “ **Animal Liberation**”.

El sistema ético de razonamiento de este autor se concreta **en el utilitarismo del interés** que propone elegir la acción que tenga más probabilidades de promover al máximo los intereses de los afectados.

Así como buen utilitarista, Peter Singer, EN NINGÚN MOMENTO basa sus argumentos en el reconocimiento del derecho de los animales al considerar que “ el lenguaje de los derechos es una taquigrafía (shortland) políticamente conveniente... pero no es de ninguna manera necesario en el debate para conseguir un cambio radical en nuestra actitud hacia los animales.

Ahora bien, este autor considera que todo ser vivo tiene intereses en la medida que tiene capacidad para el sufrimiento y el goce, y en consecuencia tales intereses deben ser acogidos con la independencia DE LA ESPECIE ANIMAL. En consecuencia, la atribución de prioridad a los intereses de los seres humanos sobre los seres humanos constituye una discriminación injusta que denomina “ especieísmo, especialmente en aquellos casos en que el hombre y los animales comparten intereses (el interés de evitar el sufrimiento).

No obstante, aunque en un principio, pueda estimarse contradictorio, Peter Singer considera que EFECTIVAMENTE, NO TODAS LAS VIDAS SON IGUALMENTE VALIOSAS, por cuanto, en la escala zoológica existen capacidades superiores que incrementan el valor de los seres y por tanto, considera que tal superioridad, en ocasiones puede ser absolutamente relevante a la hora de decidir de poner fin a la vida de un animal.

Por otra parte, en cuanto a los instrumentos de lucha para conseguir la liberación animal, Peter Singer, estima que se debe optar por el vegetarianismo, como boicot a las actividades que causan sufrimiento y muerte a los animales.

2.1.C) TOM REGAN (1938) versus Peter Singer

Tom Regan sin embargo ha optado por una perspectiva, eminentemente distinta a la de Peter Singer. En lugar del utilitarismo, ha fundamentado una doctrina que pretende defender los derechos de los animales, su libro esencialmente más conocido se llama “Animal Rights” y constituye una defensa desde la perspectiva de los derechos, que constituye paralelamente una firme oposición a las posturas morales consideradas por él incorrectas. En primera instancia, refuta la doctrina que estima que los deberes que establecen hacia los animales son exclusivamente deberes indirectos hacia los seres humanos, de igual manera, también considera rechazable el kantismo que exclusivamente respeta a los seres humanos, y por último también rechaza el utilitarismo.

Tom Regan defiende que efectivamente lo esencialmente inadmisibles NO ES, el dolor o sufrimiento animal tal y como defendía Peter Singer, sino nuestra perspectiva, frente a los animales, que los convierte en meros recursos a nuestro servicio en tanto que según Tom Regan, existen animales que pueden experimentar una vida interior compleja con independencia de los intereses de otros. En consecuencia, en tales casos, cuyo ejemplo paradigmático se concreta en los animales, son los que reciben la denominación de SUJETOS DE UNA VIDA.

El aspecto, más radical de esta doctrina se concreta en el hecho de afirmar que efectivamente, el hecho de hablar de sujetos de una vida, es aplicable a todos y no admite grados. Este autor es ciertamente radical y persigue, sobre todo la abolición del uso de los animales en la ciencia, el abandono total de la ganadería animal comercial, y por último, la supresión de la caza y captura comercial o deportiva.

2.1D) GARYL FRANCIONE(1954) versus Jeremy Bentham, Peter Singer and Tom Regan.

Garyl Francione, autor del libro “Animals Property and The law” (1995) es considerado una institución en el marco del derecho de los animales y su obra ha condicionado una gran influencia en aquellas personas a favor del veganismo, y contrarias, al especíeismo.

Su doctrina se concreta fundamentalmente, en considerar que efectivamente, el punto de vista adoptado por otros autores anteriores, resulta totalmente erróneo, por cuanto parte de una perspectiva inadecuada, esto es, los animales son parte de nuestra propiedad. En consecuencia, mientras que se mantengan en el ámbito de nuestra propiedad, con independencia de lo que afirmen tales autores, NO PODRÁN seguir ostentando intereses

moralmente significativos en tanto que siempre que se produzca un balance entre animales o personas, prevalecerá nuestro derecho sobre el de ellos.

Paralelamente, apunta que las leyes que versan sobre el derecho de los animales en ningún caso, pretenden cambiar su estatus, puesto que mientras no se modifique su tratamiento como propiedad, seguirán siendo considerados cosas, por mucho que se parta de la intención de evitar su sufrimiento innecesario, invocada, por primera vez, por Jeremy Bentham, aceptada, e incontrovertida por la doctrina, conducen al engaño, puesto que no se concede a los mismos una protección efectiva.

2.2. Derecho de bienestar animal (Animal Welfare) versus derechos de los animales (Animal Rights).

Para demarcar el tema, hemos considerado oportuno, hacer referencia, de modo introductorio, a la Declaración Universal de Derechos del Animal, en tanto que debería ser a nuestro entender, el punto de partida de cualquier regulación, sin embargo, evidentemente, la existencia de una declaración pública de carácter general, no únicamente es insuficientemente, sino que resulta absolutamente inútil, si el contenido de tales declaraciones no es incorporado a las distintas leyes promulgadas por los Estados. Así, **son las leyes positivas las que establecen los mínimos adaptados a las circunstancias de tiempo y de lugar y cuyo cumplimiento puede ser exigido “legalmente”.**

Ahora bien, **como la aprobación de leyes, y el consiguiente reconocimiento de derechos**, se condiciona al reclamo social de los mismos, hemos considerado oportuno delimitar aquellos pensamientos que han influido directamente, sobre la concienciación social de tales derechos y su consiguiente necesidad de regulación.

Precisamente, las líneas diferenciales de pensamiento referidas, han conseguido delimitar la línea que separa el derecho de bienestar animal del derecho de los animales.

Así el **Derecho de bienestar animal (Animal Welfare)**, cuyo máximo exponente es Peter Singer es considerado como un subgrupo de defensa del derecho de los animales de carácter moderado, frente a una vertiente mucho más radical, cuyo máximo representante, es Tom Regan, que se concreta en el **Derecho de los animales (Animal Rights).**

2.2A) Derecho de Bienestar Animal.

Persigue eliminar mediante la regulación, todo sufrimiento innecesario en el proceso de utilización de los animales involucrados, se ocupa de cómo son tratados los animales así como de las formas de mejorar su vida. Acepta que los animales son utilizados por los hombres y tratan de mejorar su suerte.

Para los defensores de esta postura, lo eminentemente relevante, no es si los animales ostentan facultades de raciocinio sino si pueden sufrir. Así, el hecho de que sean capaces de experimentar sufrimiento es lo que les hace merecedores de consideración moral por parte del resto de los humanos.

La teoría del bienestar animal, se sitúa en el marco del utilitarismo, es decir, que la vida se rige por los intereses de unos y otros, y que lo que hay que tomar específicamente en consideración, es la suma de los intereses en juego de los individuos que participan en una acción determinada. De un lado los intereses individuales de los seres humanos y de otro los de los animales.

2.2B)Animal Rights (Derechos de los animales)

Esta teoría, defendida por Tom Regan, parte de que los animales por el hecho de ser sujetos de vida, merecen consideración moral. Su defensa es la de los intereses del individuo, no de la especie o grupo. Esta doctrina no acepta que la prioridad se concrete en evitar el sufrimiento de los animales, porque lo que en realidad se busca es la erradicación de su explotación como recurso.

Los defensores de esta teoría abogan por la no-utilización de los animales, e incluso, por el hecho de atribuir derechos a los mamíferos superiores, que es en los que se ha demostrado que ostentan capacidad para razonar, de planificar el futuro, de abstracción mental y de empatía con los otros animales, a veces no sólo de su especie. Los activistas piensan que únicamente mediante la educación y concienciación se puede conseguir el respeto a los animales, por lo que necesitan derechos básicos para protegerse.

2.2C) New welfarism (Nuevo Bienestar Animal)

A pesar de la incompatibilidad de objetivos absolutos, manifestado por ambas posturas, procede destacar que ambas han acercado posiciones, para poder constituir una lucha de forma conjunta. Así, mientras que los moderados, se centren en la regulación, lo que en realidad buscan a un largo plazo, se concreta en la eliminación del uso de animales, en todos los campos. Paralelamente, los que abogan por la segunda postura, de carácter más radical, han adquirido consciencia de que la regulación del derecho de los animales, y la demarcación de que su sufrimiento es innecesario a priori, en ningún caso podrá conducir a su objetivo último, esto es, la completa abolición de la explotación animal.

Precisamente, el hecho de aunar ambas posturas, en una única, ha conducido a la generación de una tercera vía de activismo que recibe la denominación de Nuevo Bienestar Animal (New Welfarism), ofreciendo así un frente común en la lucha por el reconocimiento de derechos de los Animales.

3. LEGISLACIÓN ¿MODÉLICA? COMPARADA DE REINO UNIDO respecto ESTADOS UNIDOS

Empezamos nuestro análisis, queriendo investigar sobre hasta qué punto la legislación existente en Reino Unido y Estados Unidos que versa sobre el derecho de los animales, debe ser considerada como un modelo y tal análisis se efectúa desde la perspectiva y desde la óptica de una persona que no es ni pretende presentarse, como una experta en la materia, por cuanto es una principiante interesada en este ámbito, pero cuya óptica puede ser útil por cuanto desde la ventana (España) es probablemente más capaz de observar objetivamente si la legislación de Reino Unido y de forma comparada de Estados Unidos, es en todo su esplendor un modelo a seguir o únicamente es un modelo desde la perspectiva de aquellos que nada saben, porque aun nada han regulado sobre tales derechos pero que deben y pueden ser claramente mejorables.

En principio, nos centraremos en la Legislación de Reino Unido y posteriormente, la pondremos en relación con la Legislación de Estados Unidos.

3.1 LEGISLACIÓN DE REINO UNIDO

3.1.1. Origen

En primera instancia, por lo que se refiere a la Legislación de Reino Unido procede destacar que fue pionera con la aprobación de **Cruelty to Animals Act de 1876** y que desde entonces la legislación sobre derechos del animal se ha visto sustentada en lo considerado por muchos como dos grandes modelos, esto es, por una parte el modelo inglés, que es un sistema estatal centralizado de regulación consuetudinaria muy detallada, , y por otra parte, un modelo norteamericano, caracterizado por un ámbito de legislación muy general, con un control de carácter institucional.

Sin embargo, **nuestro análisis debe iniciarse** con la legislación de Reino Unido. En el marco de la legislación de Gran Bretaña, debemos empezar por atribuir especial relevancia al “**Protection of Animals Act 1911**” puesto que constituye la principal esencia de la legislación de anticrueldad aplicable a Inglaterra y Gales, considerándose por algunos como el padre de la legislación sobre bienestar animal en Reino Unido, objeto de numerosas modificaciones, última modificación con fecha 2006.

Es una legislación indudablemente pionera entendida en un determinado tiempo, por cuanto establece que **constituye una ofensa someter a sufrimiento innecesario un animal- a través de un acto de comisión, omisión o bien siendo el propietario, permitiendo un acto de comisión u omisión.**” Ahora bien, particularmente, nos preguntamos cuál es el ámbito real de protección que atribuye esta norma?

En primera instancia, debemos partir efectivamente de la evidencia, de que la norma, pretende exclusivamente, proteger la crueldad que se ha infringido sobre los animales, y en consecuencia, en ningún caso el propósito del precepto se concreta en prevenir, la crueldad que se infringe sobre los mismos.

Paralelamente, en virtud de una interpretación literal, se podría llegar a la conclusión de que “ cualquier animal” sería protegido, por cuanto se hace referencia a “ **any animal**”, ahora bien, observemos que efectivamente, aunque se establezca tal presunción debemos entender que en la práctica en la presente normativa se atribuye una mayor y elevada protección a un determinado tipo de animales: Aquellos, que pueden ostentar propietario, dicho de otra manera, pretende establecer una especial protección sobre un determinado tipo de animales, de forma específica, **los animales domésticos**¹, a pesar de que un análisis literal de la regulación se desprendiera, que tal

¹ La protección atribuida, específicamente a los animales domésticos, que a nuestro juicio, en el presente supuesto se manifiesta como evidente, fue reafirmada con el paso del tiempo, por cuanto se atribuyó una protección específica a los mismos, especialmente a los perros, especie paradigmáticamente doméstica. Así, se aprobaron con posterioridad, entre

protección se extiende a todos y cada uno de los animales, esto es, des de una indefensa mosca hasta un feroz león.²Por otra parte, el hecho de que se refiera a los propietarios de los animales, conduce a su vez, a la conclusión de que **la relación entre los animales y los seres humanos**, se concreta en una relación de propiedad, relación que por otra parte, impide que en la práctica, se atribuya una protección real y efectiva a los animales (según doctrina de Francione, que en cierta manera compartimos³), sin embargo, en ningún caso, se hace referencia al estatuto de los animales como cosas (tal y como se propugna en nuestra propia legislación⁴).

Ahora bien, una vez, habiendo referido, cual es la legislación inicial, que sirvió de base, en un principio, para la regulación del derecho de bienestar animal, procede que hagamos referencia a aquella legislación que se aprobó con posterioridad, que atribuye una mayor protección a los derechos de bienestar animal y que estimamos específicamente relevante.

3.1.2. Regulación de Derecho de Bienestar Animal

La regulación del derecho de bienestar animal, en Gran Bretaña es muy detallada, sin embargo, después de la aprobación del **Acto para la protección de los animales de 1911⁵, y sus consiguientes modificaciones, nos tenemos que esperar hasta el año 2006** para observar una regulación que a nivel general, verse sobre el Derecho de Bienestar Animal, sin perjuicio de que exista una **normativa que establezca una ordenación minuciosa sobre aspectos determinados y en algunos casos, conflictivos.**

Ahora bien con anterioridad al mismo, se produjeron numerosos actos de multiplicación normativa, en que se realizaron aportaciones jurídicas que ostentaron trascendencia a nivel mundial. Así, se debe hacer referencia a las cinco libertades (**Five Freedom**), cuya creación tuvo

otras a nivel general en United Kingdom “**Pet Animals Act 1951, Abandonment of Animals Act 1960, Breeding of Dogs Act 1973, Badgers Act 1991(Vid Anexo I, PAG.139), Breeding of Dogs Act 1991y Breeding and Sale of Dogs (Welfare) Act 1999.**

² Sin embargo, en la práctica, se evidencia, que tal regulación no abarcaba ni protegía de igual manera a TODOS los animales, por cuanto, con posterioridad, fue aprobada una regulación que específicamente protegía la realización de actos crueles contra animales salvajes mamíferos, en el **Wild Mammals (Protection) Act 1996, atribuyendo una mayor protección a animales NO DOMÉSTICOS, pero excluyendo de tal protección a aquellos animales salvajes NO MAMÍFEROS (vid Anexo I Pág 137).**

³ Vid. **Obra Francione, Gary L.. Animals Property and the Law**, Philadelphia, Temple University Press (1995).

⁴ Reiterada, tal concepción en numerosos preceptos del CC. Vid entre Otros Art. 333 y ss, Art. 365 o Art. 610 CC.

⁵ Vid. Anexo I pág. 98

lugar en el momento de aprobación del “ Farm Animal Welfare Council de 1979⁶ y que establecieron unos mínimos básicos de protección que bajo cualquier circunstancia, deberían ser respetados, tomadas como referencia mundialmente, y que a nuestro juicio deben ser positivamente valoradas, por cuanto básicamente todas ellas van dirigidas, a asegurar las necesidades básicas de Bienestar Animal, y que con independencia, de que puedan parecer obvias, su cumplimiento, no es tan fácil de respetar. En este caso, nos volvemos a reiterar, en que tales libertades, desgraciadamente, y con independencia de que el concepto se haya exportado y extendido mundialmente, obedece a una intención de protección de determinados animales en especial, con lo cual, pese a constituir un buen inicio, debería ser extensible, y efectivo para todos los animales, sin admitir exclusión alguna.

En segunda instancia, debemos referirnos a la legislación que versa sobre el Bienestar de los Animales de Granja (**The Welfare of Farmed Animals- England-Regulations 2000**) que constituye una legislación general que afecta a cualquier animal de granja, ESTO ES, si bien se admite la posibilidad que tal regulación verse, sobre peces, reptiles o anfibios, es eminentemente necesario que su principal objetivo sea el de que sean empleados como animales de granja, y por consiguiente se destinen **para finalidades productivas, de comida, piel o de cualquier otro tipo siempre que cumplan tal requisito.**

Así, si bien efectivamente, desde una perspectiva de defensa del derecho de los animales, tal regulación es necesaria, debemos de tomar en consideración que exclusivamente, se refiere a aquellos animales que puedan ser utilizados para beneficio humano, y en consecuencia, se pretende garantizar un bienestar que contribuye a los propios intereses humanos.

Ahora bien, como en cualquier regulación, la aprobación de tal legislación debe ser interpretada, en un determinado contexto, y efectivamente, en ningún caso debe interpretarse que tal legislación recaiga sobre el bienestar de los animales de granja, por un motivo casual, en tanto que precisamente lo que se pretende evitar es que, los animales que se encuentran hacinados por motivos productivos en una granja, se encuentren en situaciones de absoluta incomodidad, padeciendo sufrimientos necesarios, por lo que se precisa, y se exige que se encuentren en unas condiciones mínimas de bienestar, para evitar que precisamente, por ejemplo, se encuentren en

⁶ Tales libertades se concretan en:

- Libertad de pasar sed y hambre- por el acceso a agua fresca, una dieta completamente saludable y vigorosa.
- Libertad de la incomodidad- proporcionando un entorno adecuado incluyendo un techo y una área cómoda de descanso.
- Libertad del sufrimiento, dolor y enfermedad- por la prevención o diagnóstico rápido y tratamiento.
- Libertad de expresar un comportamiento normal- proporcionando suficiente espacio, facilidades adecuadas, y compañía de los animales de su especie.
- Libertad de miedo y estrés- asegurando condiciones y tratamiento que evite el sufrimiento mental. (...)

una granja en un volumen ínfimo en el que ni siquiera puedan moverse, todo ello justificado, bajo el criterio absoluto de que se destinan a una producción humana. En este caso, entienden que, en definitiva, el hecho de que determinados animales de granja se utilicen para motivos de carácter productivo, no es óbice, para que durante su vida, deban encontrarse en situaciones nefastas e infrahumanas.

Situándonos desde la configuración, que hasta el momento se ha referido, lo que particularmente se presentaba como necesario, era la necesidad de regulación efectiva del Derecho de bienestar Animal, protegiéndolos, no exclusivamente, desde la mera perspectiva, de procurar evitar su sufrimiento (lo cual se ajustaría, a la doctrina defendida por Bentham y reafirmada por Singer) sino que por el contrario, se estimaba eminentemente necesaria la existencia de una regulación que de forma general procurara su bienestar. Precisamente, con tal intención se aprobó el **Animal Welfare Act 2006**⁷.

Sin embargo, para nuestra sorpresa, tal protección no resulta extensible a cualquier tipo de Animal sino que su ámbito de aplicación se reduce exclusivamente a **aquellos animales vertebrados distintos del hombre** “ *in this Act, “animal” means a vertebrate other than man,*” por una parte, y por la otra, se demarca que efectivamente, los animales que son objeto de protección, son aquellos que o bien **son animales domésticos, o bien son animales que se encuentran bajo el dominio del hombre** (con lo cual se evidencia de una forma irrefutable, que se refiere a aquel tipo de animales que ostentan algún tipo de relación sometida a interés del hombre, esto es animales de producción de comida, de piel..).

Así, pese a que en un principio, del Título del Acto, se pudiera desprender, la presunción de que se refiera a los Animales de forma genérica, lo cierto es que tal protección versa exclusivamente, sobre aquellos **que NO son vertebrados**, lo cual a nuestro criterio conduce a la reflexión de que si efectivamente únicamente se atribuye protección a aquellos animales vertebrados (como el hombre) y por otra parte, exclusivamente a aquellos animales domésticos, o bien, aquellos que mantienen una relación específica con el hombre, no resulta menos cierto, que se podría llegar a la conclusión que exclusivamente, **merecen vivir en una situación de bienestar, aquellos animales que responden a los intereses de los hombres**, de forma directa, de forma que aquellos que no mantienen tal relación no ostentan tales derechos. **Dicho de otra manera, se está atribuyendo una protección especial a animales, no por la ostentación de derechos subjetivos de forma individualizada, si no por la especial relación mantenida con el hombre.**

Por otra parte, procede destacar que la presente regulación, condena la conducta consistente en infringir **un sufrimiento innecesario en un animal. Ahora bien, en este ámbito**

⁷ Vid Anexo pág. 51.

efectivamente la pregunta que se plantea indefectiblemente es, que se considera por sufrimiento innecesario, o dicho de otra manera, cuando un sufrimiento puede ser admisible o considerado suficientemente necesario? Tal consideración pretende ser concretada delimitando aquellos casos en los que debe ser considerado que un sufrimiento resulta innecesario per se, sin embargo, a nuestro juicio no ofrece garantías definitivas. Ahora bien, en todo caso se excluye de la existencia de tal sufrimiento innecesario, aquellos casos en que la destrucción del animal se destruye de una forma humana considerada “apropiada”. Entendemos que en tal definición deberían incluirse aquellos supuestos en los que los animales son utilizados con finalidades productivas para los humanos, sin embargo, a nuestro juicio, el lenguaje empleado no es en ningún caso el más “apropiado”, por cuanto conduce diametralmente, a la conclusión que con anterioridad, ya ha sido demarcada, esto es, que los derechos de los animales, se encuentran supeditados, a los intereses del hombre, y que en consecuencia, **tales derechos pueden ser prescindibles, siempre y cuando, el hombre considere que ostenta intereses prioritarios.**

A su vez, en el correspondiente acto, se regulan aspectos específicos que se estiman relacionados directamente, con el bienestar al que debe ser sometido el animal, que se concretan en la mutilación atribuida a un animal, la lucha entre animales o bien el hecho de envenenar animales, todas ellas conductas, que merecen una especial protección, por cuanto, evidentemente, pueden ser subsumidas, en los derechos de bienestar animal más elementales.

3.1.3 Regulación de aspectos problemáticos

Hasta el momento, nuestro análisis se ha referido a la regulación general existente en Reino Unido respecto el Derecho de Bienestar Animal, y a pesar de que reconozcamos, su virtualidad, constituyendo un modelo a seguir para aquellos que tal y como hemos referido **no se han ocupado de la referida regulación, tal ordenación ostenta defectos particulares, y es claramente superable, en tanto, su latitud jurídica se aleja indefinidamente de los presupuestos previstos por la Declaración Universal de Derechos del Animal.**

Ahora bien, si bien la regulación de determinados aspectos, es exigida y aceptada por la mayoría de la sociedad, en ocasiones, determinados temas, por constituir un conflicto de intereses para los seres humanos ostentan una cierta problemática. **Así, si bien la regulación que hasta el momento se ha referido, no plantea mayores controversias, procede destacar que existen argumentos como la tradición, o el interés superior de los seres humanos (al entrar en conflicto con el de los Animales) ha venido siendo considerado durante un largo período de tiempo como anulatorio de los derechos de los animales (o al menos condicionador).**

Sin embargo, pese a que existiera tal actitud, respecto algunos aspectos considerados problemáticos, finalmente se ha conseguido su regulación, lo cual constituye, a nuestro juicio, un

elemento que de forma determinante, evidencia la concienciación social existente en tal sociedad, respecto el Derecho de los Animales.

Así, consideramos oportuno, hacer referencia a aquellos aspectos que han merecido ser objeto, precisamente por las controversias existentes al respecto, de una específica y particular regulación, y precisamente, la superación de tales tabúes sociales, sepultados en el mundo de la tradición antagónica, y amparados en la supremacía del hombre, son los que son demostrativos, de **una INTENCIÓN REAL DE PROTECCIÓN DE LOS ANIMALES, en tanto que a nuestro juicio, ningún logro se alcanza** al proteger EXCLUSIVAMENTE, a los animales que mantienen una relación directa con el hombre (o en todo caso, debe entenderse minimizado), sino que el logro real, se presenta cuando los intereses no necesarios en la práctica para el hombre, no prevalecen sobre **el derecho de los animales a vivir con bienestar**.

En primera instancia, un elemento considerado específicamente problemático, es el de la caza y concretamente en Gran Bretaña, se planteó un debate nacional, sobre la popular caza del zorro, que venía constituyendo una tradición histórica.

Así, entendiendo la caza del Zorro, como una tradición irrenunciable, debe valorarse especialmente, que en 2004 bajo el Gobierno de Blair, **se aprobara una norma que prohibía explícitamente, tal actividad a través de la utilización de perros que versara sobre cualquier animal mamífero salvaje (bajo el cual se subsume la figura del zorro)**⁸, renunciando así a su tradición, más pura, por la protección del bienestar de los animales, lo cual evidencia que existe una voluntad real de protección del interés de los animales, por cuanto, se ha hecho prevalecer su bienestar a los intereses de los seres humanos.

Sin embargo, a pesar de que efectivamente, no pretendemos reducir la importancia, ni el avance, que supuso la aprobación de la mencionada regulación, por cuanto existía un conflicto diametral, entre los intereses de los seres humanos de conservar su tradición sagrada, y paralelamente, el hecho de poner fin a la vida de animales, consideramos oportuno atribuir una especial importancia, a un tema a nuestro juicio, interesantísimo, sobre el cual ha existido, existe y probablemente existirá un conflicto constante, pese a que el camino de su normativización ya se ha iniciado, y no es otro, que **el CONFLICTO DE EXPERIMENTACIÓN CON ANIMALES**.

Tal conflicto, ostenta una particular importancia, en la opinión pública, **acerca de hasta qué punto debe ser permitida la experimentación con animales**⁹, y precisamente, debido a la existencia de tal problemática, se decidió regular, mediante una regulación específica que recibe la denominación de “ **A (SP) A¹⁰ ->Animals (Scientific Procedures) Act .1986**”¹¹

⁸ Denominada “Hunting Act 2004. Vid Anexo pág. 141.

⁹ La percepción social sobre tal fenómeno será objeto de análisis específico en el Apartado 4. Vid págs. 33-38

¹⁰ Vid Anexo I pág.114

Esta regulación en primera instancia, tal y como se ha referido previamente en el marco del resto de normativa de UK, hace referencia de **forma exclusiva al uso de todos los animales vertebrados en cualquier experimento con animales u otro procedimiento científico y atribuyendo en algunos momentos una especial protección a determinadas especies, así se establece que no se debe autorizar el uso de gatos, perros, primates o equivalentes a no ser que se justifique específicamente la utilización de los mismos, por no poder emplear otros procedimientos o animales.**

Así, entendemos que de igual manera se atribuye una especial protección a aquellas especies que mantienen similitudes determinadas con el hombre, o que mantienen una relación específica con el ser humano.

En este supuesto se reclama indefectiblemente, la existencia de unas licencias mínimas, para poder experimentar con animales, de forma que, **cualquier tipo de experimento científico en el que medie el USO de animales, debe ser objeto de unas determinadas licencias u autorizaciones¹², lo cual asegura un control real y efectivo del uso de animales y a su vez, se asegura una concienciación al respecto.**

Para la concesión de las referidas licencias, se establecen una serie de requisitos mínimos que en ocasiones se encuentran complementadas con requisitos adicionales.

Así, por ejemplo se establece que para que se expida la licencia para la realización de un proyecto en el que se experimente con animales será necesario que:

- Que el objetivo no se puede llevar a cabo razonablemente por cualquier otro método en el que se excluya el uso de animales.
- Que se utilice el mínimo número de animales afectando en el menor grado posible a su sensibilidad.

¹¹ Paralelamente, a la regulación pionera de Reino Unido, como consecuencia del reconocimiento del Derecho de los Animales y por la sensibilización de los grupos de Defensa, surgió la Bioética animal (Los principios ideales o normas de conducta en cuanto a la bondad o malicia de nuestros actos en el uso de los animales para la experimentación científica, en base a tres argumentos fundamentales:

- Creciente número de especies e individuos utilizados en la experimentación científica y en la enseñanza. Hecho paradójico cuando al mismo tiempo los medios audiovisuales invadían con las técnicas pedagógicas, haciendo innecesaria la experimentación directa.
- Inadecuadas condiciones de estabulación. En ocasiones los animales, se mantienen en un laboratorio donde están expuestos a diversos estímulos estresantes, gases o vapores.
- Inadecuado trato. Las actuaciones que con más razón justifican las protestas de los defensores de los Derechos de los Animales corresponden a su trato desconsiderado con ellos.

¹² Concretamente existen 3 tipos de licencias: **personal licences** (licencia otorgado por el Secretario de Estado calificando la posibilidad de aplicación de procesos científicos en que se incluyen animales o descripciones específicas en un lugar específico), **Project licences** (Es una licencia expedida por el Secretario de Estado, especificando un programa de trabajo y autorizando la realización de procedimientos con animales en un determinado lugar), **Certificates of designation** (implica la concesión de una autorización a una persona determinada, para que en un determinado establecimiento, lleve a cabo la experimentación con animales, con los consiguientes procedimientos regulados)

- Que los procedimientos necesario infrinjan el mínimo sufrimiento posible a los animales
- Que los procedimientos se lleven a cabo mediante anestesia¹³ cuando se puede reducir el sufrimiento, aunque interfiera en el objetivo del experimento.¹⁴

Por otra parte, debe tomarse en consideración que el tiempo por el que se expiden las mencionadas licencias es limitado (se extiende en el caso de **Project Licences**- Autorizaciones de proyectos, a un máximo de 5 años) y que el que ostenta tal licencia es responsable personalmente de todos los procedimientos con animales que se lleven a cabo mediante tal licencia, y paralelamente, únicamente, pueden efectuar aquellos procedimientos, para los que se les haya atribuido autorización.

El hecho de que se predetermine, el mencionado procedimiento para la experimentación con animales, asegura que en la práctica, la experimentación con animales, **se evite** en la medida en lo posible, y **que en caso de llevarse a cabo, se produzca bajo unas garantías mínimas no máximas.**

De esta manera, como efectivamente, en la práctica, para efectuar cualquier tipo de experimentación, se debe *a priori*, justificar su necesidad, en tanto que se precisa **de una autorización, expedida por el propio Secretario de Estado,** se asegura con ello que se respete la legislación en tanto que el cumplimiento de la legislación, se asegura, sometiéndolo a un control de oficio. A su vez, el hecho de que tal licencia se expida, con una validez temporal y de forma personal, a nuestro juicio, debe ser específicamente valorado como positivo, puesto que de esta manera se evita, que en aras de tal licencia, se efectúen a posteriori, experimentos con animales de forma indefinida y extensible, a otras personas (evitando de esta manera, someterse a inspección) y a su vez, constituye una garantía de que la evolución en la exigencia de cumplir una serie de requisitos, no implique necesariamente un cambio absoluto de regulación (a nuestro juicio).

Ahora bien, debemos referir, que con posterioridad a la aprobación de tal regulación se aprobó la denominada“ **Guidance on the Operation of the A(SP)A 1986** que esencialmente exigen que calidad y seguridad en los estudios de laboratorio con animales, sometiendo todos los procedimientos en que utilizan los animales a un Procedimiento de Revisión Ético (**Ethical Review Process**).

Tal procedimiento de revisión ostenta entre otras funciones:

¹³ Previamente, ya se había introducido regulación específica que versaba sobre la obligación de emplear Anestesia en determinados supuestos. Vid Anexo Protection of Animals (Anesthetics) Act. 1954 pág 107 y Protection of Animals (Anaesthetics Act 1964 págs 112.

¹⁴ Ver A(SP) A Sección 5 (5). Guidance on the Operation of the A (SP) A 1986, disponible en <http://www.archive.officialdocuments.co.uk/document/hoc/321/321.htm>. (4 mayo 2005).

- **Promocionar las “3 erres”, esto es, Reducción** (en el número de animales utilizados), **Reemplazo** (de los procedimientos que emplean animales por otros que no los precisen) **y** **el Refinamiento** (de los métodos usados).
- Examinar los costes y beneficios de la utilización de uno u otro sistema.
- Considerar prioritario el cuidado y comodidad de animales en el establecimiento y en el momento de su muerte.
- Revisar los sistemas existentes en los establecimientos que utilizan animales.
- Promocionando una necesidad de discusión con aspectos relacionados con la investigación de animales asegurar las mejores prácticas y la utilización de legislación relevante.

Para nosotros, evidentemente, **la función más relevante es la de Reducir, Reemplazar y Refinar los métodos utilizados**, y éste debería ser considerado el objetivo esencial, por cuanto resulta un argumento demagógico, el de que la experimentación con animales, es beneficiosa para la ciencia, si efectivamente, gracias a la evolución de la ciencia, cada vez, es más claramente posible, emplear métodos alternativos a la utilización de animales.

Precisamente, la puerta abierta que en Reino Unido se abrió **al empezar regulando tal fenómeno, ha permitido que se hayan producido numerosos avances en otros países pero especialmente en el marco de la política existente al respecto en Reino Unido.**

Así, a partir de 1997, the Home Office (El Ministerio del Interior), decidió **excluir aspectos¹⁵específicos de la experimentación con animales referidos a la realización de pruebas de toxicidad de cosméticos y (en 1998) sus ingredientes, productos alcohólicos o tabaco.**

Consiguientemente, se consideró que ningún beneficio invocado, podría estimarse suficiente para justificar cualquier uso de animales en experimentos que versaran sobre tales objetos¹⁶, y de la misma manera, en este mismo sentido, se produjeron otros avances en materia de política, referentes a controles de importación de primates (que ha sido un tema ha planteado disyuntivas éticas y de bienestar animal durante muchos años, siendo sujeto a numerosas campañas de protección por parte de organizaciones protectoras de animales. Así, a título de ejemplo RSPCA ha iniciado numerosas campañas “ para reducir el número de primates utilizados

¹⁵ Cuando un método alternativo en la práctica sea disponible y efectivo. La utilización de primates capturados en la naturaleza también se ha considerado inadmisible, a menos que excepcionales y específicas justificaciones puedan ser establecidas.

¹⁶ Animal Procedure Committee (2003). Review of the cost- benefit assessment in the use of animals in research (London: Home Office)

y su sustitución por otras alternativas”¹⁷), la utilización de determinados procedimientos tóxicos, así como la cría de determinados animales en laboratorios, que han sido objeto de numerosos Códigos de Buenas Prácticas.¹⁸

Particularmente, consideramos, que efectivamente, la limitación en el marco de la experimentación con animales, es un aspecto más que favorable y necesario para que se produzca una evolución. Sin embargo, nos debemos de preguntar si efectivamente, la imposición de tales limitaciones responden a una intención de bienestar objetivo de los animales, o si por el contrario, se encuentran influenciadas, por nuestros propios condicionamientos personales, en tanto que si bien, consideramos que efectivamente, la utilización de primates para la experimentación con primates, puede ser muy reprobable, también consideramos que si en lugar de tratarse de primates, se tratara de otras especies, socialmente, menos admitida, la protección sería inferior, y por lo tanto nos reiteramos en lo que ya hemos introducido con anterioridad, los derechos que atribuimos a los animales responden **a parámetros objetivos, o por el contrario, se rigen por lo que subjetivamente, se considera más o menos reprobable?**

3.2 LEGISLACIÓN REINO UNIDO VERSUS LEGISLACIÓN ESTADOUNIDENSE.

3.2.1 Regulación comparativa de bienestar animal.

¹⁷ RSCPA (2005). Primates. Consulta posible en : [http:// www.rspca.org.uk/ servlet/Satellite?pagename=RSPCA Campaigns/Primates/Homepage](http://www.rspca.org.uk/servlet/Satellite?pagename=RSPCA_Campaigns/Primates/Homepage) (4 mayo 2005).

¹⁸ Por ejemplo Home Office (1995) Code of Practice for the housing of animals in designated breeding and supplying establishments, consultable en “ http://www.homeoffice.gov.uk/docs/cop_hcasp.html. Accessed on: 4 mayo de 2005.

El objeto del presente estudio, es conocer la legislación de Reino Unido, sin embargo tal conocimiento, a nuestro entender, no debe interpretarse individualmente, puesto que a pesar de que según el dicho popular **“ las comparaciones son odiosas”**, en este caso son necesarias, por cuanto no podemos llegar a entender su significación real, si no la ponemos en relación con los avances (o retrocesos) que acaecen en otras legislaciones estatales.

Particularmente, no hemos encontrado, **solución mejor que precisamente, compararlas, con aquellas que son capaces de competir con ella, por su evolución, aquellas consideradas como un modelo a seguir, por su continuo avance, esto es, la legislación de EEUU.**

Así ,a título introductorio, procede declarar que si bien con anterioridad hemos resuelto que el movimiento en un primer momento se inició en Gran Bretaña, los resultados efectivos de tal movimiento, **se observaron en primera instancia en Estados Unidos, en tanto que la primera promulgación de leyes que versaba sobre la protección animal, se llevó a cabo en EEUU.** A nivel federal, la ley de más importancia que recae sobre la protección animal en EEUU es el Animal Welfare Act (debe tomarse en consideración que en La constitución de Estados Unidos no se atribuye una protección especial al Derecho de los Animales), Ley de Bienestar Animal, que fue firmada en 1967 por el Presidente Johnson, y dirigida esencialmente a los animales de laboratorio.

Ahora bien, el hecho de que el movimiento de Bienestar Animal sea considerado por muchos como paradigmáticamente estadounidense responde no únicamente a la justificación de que fue en el primer lugar, en que se plasmó la legislación al respecto sino que paralelamente, tal concepción responde a que **Estados Unidos, ha sido el único estado que ha propuesto modificar el estatus de “ propiedad” que ostentan los animales con respecto los seres humanos.** Mediante este cambio, efectivamente, las personas nos reduciríamos a ser exclusivamente sus guardianes, **NO SUS DUEÑOS.**¹⁹

A su vez, EEUU, es el primer país en que desde los años 90, los derechos de los animales, aparecen de forma habitual en revistas y en la bibliografía jurídica habitualmente y solo en EEUU, tal asignatura forma parte del plan de Estudios, en más de 110 universidades (tan prestigiosas como Harvard, Georgetown o Rutgers), y solo en Estados Unidos existen bufetes de abogados particulares que se ocupan de la defensa de los derechos de los animales y todo ello, contribuye (junto con la influencia que ha ostentado sobre el mundo) a la consideración de que el Derecho de los Animales, tiene un origen intrínsecamente americano.

Una vez habiendo demarcado efectivamente, cual es la regulación general que ostenta una mayor relevancia en Estados Unidos, esto es, el Animal Welfare Act (AWA), procede que hagamos

¹⁹ El debate al respecto ha sido tan serio que tras ser sometido a votación, Rhode Island se ha convertido en el primer Estado que ha promulgado una legislación reconociendo a las personas como guardianes de sus animales de compañía(adecuándose así a la doctrina cuyo propulsor fue Francione, y seguida por otros abogados como Wise, Kelch y Wicklund que defienden que el Estatus de la propiedad es una equivocación legal que precisa de revisión).

una precisión al respecto, de forma previa a efectuar un análisis de la misma y ponerla en relación con la regulación existente en Reino Unido.

Recordemos que efectivamente Estados Unidos es un Estado federal y en consecuencia, se debe diferenciar, entre la Regulación a nivel federal, que es de carácter general, y a su vez, la regulación existente en cada uno de los Estados que conforman el mencionado estado federal, en los cuales se produce una regulación más detallada (en diferentes grados, sin embargo), que a su vez, no siempre ostenta una equivalente posibilidad de aplicación.²⁰

Sin embargo, para empezar consideramos oportuno centrarnos en las disposiciones previstas fundamentalmente en **el Animal Welfare Act**.

En primera instancia, procede hacer referencia que su ámbito de aplicación, NO ES NINGÚN CASO, aplicable, a todos los animales, sino que por el contrario, se reducía a los perros, gatos, primates u otros animales mamíferos, excluyéndose específicamente aves y roedores (este último exclusión ha sido modificada con posterioridad²¹). **En este sentido, observamos un paralelismo claro, respecto de la legislación de Reino Unido (Animal Welfare Act 2006),** y es que no se protege a todos los animales sino que por el contrario se atribuye una protección exclusiva, a animales mamíferos (incluso en un grado más reducido) y se excluye en todo caso de su objeto de protección, la de aquellos animales invertebrados.

La perspectiva de protección por tanto, vuelve a regirse por aquellos parámetros que los seres humanos consideramos oportuno, en función de nuestra propia relación con los animales. Así, nos preguntamos, no constituye un término eufemístico, hablar de Animal Welfare Act, en legislaciones, que se presuntamente se preocupan, del derecho de los animales, cuando en realidad son, precisamente, legislaciones de discriminación del derecho de los animales, o es que efectivamente, no resultaría **“ moralmente adecuado” ser honestos y denominar a las cosas por su nombre, y hablar de Ley de Bienestar para animales EXCLUSIVAMENTE, mamíferos (y / o) vertebrados?**

Ahora bien, con independencia de la crítica efectuada, resulta indiscutible, que la protección que se atribuye a los animales (mamíferos) en la presente ley, es ejemplar y abarca aspectos de índole variada que garantizan el Derecho de Bienestar Animal. Así, en las

²⁰Vid. Artículo Prof. David Favre. Overview of U.S. Animal Welfare Act. Animal Legal & Historical Center. Place of Publication: Michigan State University College of Law (May 2002) posible consulta en <http://www.animallaw.info/articles/ovusawa.htm>

²¹ El Animal Welfare Act, ha sido objeto de numerosas modificaciones (7 modificaciones en total, en 1970, 1976, 1985, 1990, 2002, 2007) y a su vez, complementado por otras regulaciones específicas de Bienestar Animal.

disposiciones previstas en la ley se establece una regulación para eliminar el uso de animales robados, se establecen en qué condiciones mínimas de bienestar se debe mantener a los animales domésticos, regula cuales son los procedimientos que se deben de seguir para la utilización de animales en el marco de la experimentación científica así como la creación de Comités para el ejercicio de inspecciones que controlen el cumplimiento de la normativa, por otra parte aquellos que transportan animales deben de transportarlos en unas condiciones mínimas entre otras.

Una vez habiendo referido, en un sentido general, el ámbito de protección del Animal Welfare Act, procede declarar que su ámbito de protección, es eminentemente más amplio en cuanto aplicación material, que el **Animal Welfare Act 2006 (de Reino Unido)**, puesto que este último se refiere a un ámbito de protección que recae **EXCLUSIVAMENTE sobre la crueldad infringida sobre animales, no tanto sobre la prevención de bienestar animal de los mismos.**

Sin embargo, tales elementos son concretados en Reino Unido, **por una regulación específica (independiente) como por ejemplo, la que rige en materia de Experimentación Científica.**

Así, la conclusión a la que podríamos llegar a PRIORI, es la de que el Animal Welfare Act, de EEUU, versa **sobre una multiplicidad de aspectos muy variados y que ello garantiza la atribución de una protección CONCRETA A LOS ANIMALES**, sin embargo, la principal materia tratada en el marco de la legislación genérica de Reino Unido, esto es, aquella que versa sobre la Anti Crueldad Animal, no aparece regulada por tal regulación.

Ahora bien, a tal respecto, debemos tomar en consideración que efectivamente, la regulación entorno tal extremo, es remitida a nivel Estatal, en tanto en cuanto, tal y como se ha referido con anterioridad, en modo alguno debemos olvidar que también **existe regulación en cada uno de los Estados que conforman el Estado Federal de Estados Unidos²²**, y tales disposiciones, versan fundamentalmente, sobre aspectos **correlacionados con la prevención y el castigo por la crueldad infringida sobre animales.** Así, durante más de 120 años, las leyes estatales se han dedicado a la función específica de regular las prohibiciones criminales contra los actos en los que media Crueldad hacia los animales y el consiguiente deber de cuidado (con la salvedad de que obviamente, tales leyes son inaplicables en determinados ámbitos, como el ámbito de experimentación con animales)²³.

²² Remisión al Apartado 5 que versa sobre Ranking de Legislación Estadounidense sobre crueldad animal.

²³ Consultar Anti-Cruelty law by State en www.animallaw.info/statutes/topicstatutes/sttoac.htm

3.2.2 Legislación comparada experimentación con animales

Una vez habiendo referido, cual es la legislación que a título general, se recoge sobre el Derecho de Bienestar animal, procede que nos refiramos a la Legislación existente sobre Experimentación Animal.

Este ámbito tal y como se ha expresado con anterioridad, **las modificaciones realizadas sobre el “ Animal Welfare Act” de Estados Unidos, han ampliado el peso que tal problemática ostenta. Así, se ha regulado específicamente en el Animal Welfare Act²⁴** (todo ello referido exclusivamente a animales vertebrados, recordemos que el ámbito de aplicación, es el mismo, puesto que estamos en la misma ley) **que:**

- Todos los animales usados para experimentación deben haber sido obtenidos legalmente
- Todas las instrucciones científicas deben disponer de una Administración que efectúe tareas de control entorno el uso y cuidado de animales.
- Los experimentos que requieren la utilización de animales vivos deben llevarse a cabo o encontrarse directamente supervisados por un Veterinario especialista.
- Los animales de laboratorio deben ser tratados de manera adecuada, alimentándolos, adecuadamente, y mantenidos bajo determinadas condiciones de higiene.
- Todos los experimentos que puedan causar dolor o sufrimiento, deben efectuarse con anestesia con el fin de evitar dolores innecesarios (a no ser que el hecho de que se establezca anestesia invalide el propósito experimental).
- Si finalizado un proceso experimental agudo no se precisa la supervivencia del animal, deberá ser sacrificado por procedimientos que aseguren un mínimo sufrimiento y un efecto inmediato, debiéndose constatar la muerte del animal antes de deshacerse del mismo.
- Si la naturaleza del a experiencia requiere la supervivencia del animal, el comité científico del centro donde se desarrolle el experimento supervisará la evolución del proceso y dictará en cada caso las normas a seguir para controlar el estado y la evolución del animal tratado.

La referida regulación, atribuye una protección especial a aquellos animales que son usados en el marco de la experimentación, SIN EMBARGO, a diferencia de la regulación existente en Reino Unido, en ningún caso, se pretende **NI LIMITAR LA EXPERIMENTACIÓN ANIMAL** haciendo prevalecer los intereses de los animales (sobre el de los hombres), ni en consecuencia, se hace referencia a que la experimentación animal, debe siempre responder a una alternativa (excluyéndose de aquellos casos en que la experimentación animal sea innecesaria), no a la regla general.

²⁴ Su control se hace recaer en un sistema institucional “ Institucional Animal Care and Use Committees”, creado por el Animal Welfare act y sus regulaciones complementarias y actúa en función de políticas más detalladas que aparecen publicadas en los Institutos Nacionales de Salud (National Institutes of Health).

Por el contrario, **parte de la presunción de que tal experimentación animal, es admisible estableciendo que los animales sometidos a tales prácticas, deben sufrir LO MÍNIMO POSIBLE (siempre que el propósito de la experimentación lo permita)** y a su vez, deben encontrarse en situación de bienestar, aspecto que nos sorprende profundamente si tomamos en consideración el nivel de evolución y de avance en que se encuentra la legislación de Derecho Animal en otros ámbitos, y en este ámbito concreto, su configuración como modelo ideal del deber ser, se convierte en el modelo de lo que no debe ser.

4. CONCIENCIACIÓN SOCIAL DEL DERECHO DE BIENESTAR ANIMAL EN REINO UNIDO Y ESTADOS UNIDOS.

Desde la antigüedad, filósofos y pensadores, de una forma u otra se han manifestado entorno la relación existente entre animales y seres humanos, y tal análisis continuado, ha desembocado en el nacimiento del glorioso derecho de los animales que de una forma más o menos ejemplar se ha ido extendiendo internacionalmente. Sin embargo, cual es la motivación real que provoca, una mayor o menor regulación? **Quizás debemos culpabilizar a los legisladores que obvian tal regulación, o bien es que no existe tal necesidad, en determinados Estados, por la ausencia de relación con los animales?** Pues bien, a nuestro juicio, uno de los factores que puede influir en un mayor o menor grado de protección legal se condiciona esencialmente, por la sensibilización social que se despierta entorno los animales y con tal intención observaremos esencialmente si tal correlación existe.

De ser así, la protección legal ejemplar que se atribuye en Reino Unidos y Estados Unidos a los animales no se reduciría a una mera casualidad, ni en consecuencia, su ampliación progresiva y continua con el paso del tiempo, puesto que en tales países constituye un reclamo social suficientemente extendido el deber y obligación de respeto y protección entorno los mismos. Un respeto que por desgracia, en nuestra sociedad se encuentra aún en gran parte dormido.

Sin embargo, ello no supone afirmar que no entendamos que los animales puedan sentir dolor, o sufrimiento, sino que simplemente, **provoca suficiente indiferencia (o que al menos no ostenta suficiente interés a nivel generalizado), para que exijamos el reconocimiento de tales derechos.**

Consiguientemente, entendemos que existe una relación directa entre el grado de concienciación social y el nivel de regulación, lo cual a su vez justificaría porqué aquellos animales que ostentan una mayor relación con el hombre, como por ejemplo los animales domésticos, son objeto de una especial protección en la normativa existente al respecto, y a su vez, son excluidos de determinadas prácticas de experimentación con animales.²⁵

Para evidenciar hasta que punto el nivel de concienciación social, condiciona la existencia de una regulación avanzada, **nos situaremos frente aquellos sistemas considerados modelos a seguir, aquellos que demarcan parámetros sociales, como es el caso de Reino Unido y Estados Unidos, para observar si efectivamente en los mismos tiene lugar tal fenómeno.**

²⁵ Como sucede en el marco de la regulación de UK, en que los perros y gatos, son excluidos de la experimentación con animales. Vid A(SP) A Anexo pág.114.

Precisamente para empezar observando qué nivel de concienciación existe, nos remitimos al que puede ser considerado como máximo símbolo de un Estado, su mayor representante: **el Presidente de Estados Unidos, el demócrata Barack Obama**. Así, el Presidente de Estados Unidos, se manifestaba en un acto público (un mitin en Henderson-Nevada) afirmando que “ no únicamente era un presidente para los americanos sino también para los animales” y que “ creía que la manera que tenemos de tratar a los animales refleja la manera que tenemos de tratarnos unos a otros”, y que consideraba que ostentaba una especial importancia que “un presidente sea consciente de la crueldad que sufren los animales”.²⁶

Tal aseveración expresada en un acto público, **de tal relevancia como lo es un mitin**, nos conduce a la reflexión de que si efectivamente el representante de los estadounidenses realiza tal mención, más allá de evidenciar estar de acuerdo con el reconocimiento de los derechos de los animales, demuestra que su regulación es ELEMENTAL PARA LOS CIUDADANOS, y es precisamente como representante de los mismos, que se atreve a realizar tal afirmación, porque es consciente de que existe una concienciación generalizada de tal necesidad.²⁷

La referida manifestación deber ser a nuestro juicio interpretada como una materialización de la sensibilización predominante en Estados Unidos, extensible desde el Presidente de Estados Unidos a cualquier ciudadano.

Al respecto, podría invocarse a sensu contrario, que tal posicionamiento, es el posicionamiento natural y coherente de cualquier estado. **Ahora bien, si resulta una evidencia tan notoria, porque desde nuestro prisma y en nuestro Estado, no resulta tan fácil trasladar tal afirmación en la voz de nuestros representantes?** La respuesta es sencilla, porque en nuestro país existe total despreocupación (en general) por tales aspectos, y no existe una

²⁶ Noticia publicada en The Times consultable en <http://www.time.com/time/politics/article/0,8599,1704179,00.html>

²⁷ De hecho se ha manifestado una postura favorable a la protección de animales de forma reiterada, Durante los ocho años que ha sido Senador por Illinois, ha votado a favor de al menos doce leyes de protección animal, incluyendo leyes estatales:

- Autorizar la creación de entidades que ofrezcan a los animales de compañía cuidados de por vida.
- Incrementar las penas por crueldad contra los animales
- Exigir pruebas psiquiátricas a quienes abusan de los animales
- Exigir a los veterinarios que informen sobre posibles actos de crueldad o sobre peleas de animales
- Prohibir el sacrificio de caballos para el consumo humano (Illinois es ,junto con Texas, el único Estado con mataderos activos de caballos).
- Crear restricciones adicionales para dificultar las actividades de las "fábricas" de perros.
- Votó en 2005 a favor de eliminar las subvenciones para el sacrificio de caballos, y fue uno de los promotores de una nueva ley para prohibir dicho sacrificio y la exportación de caballos para el consumo humano
- Inició acciones legislativas para endurecer las penas por peleas de perros y de gallos, para prohibir la tenencia de perros de pelea y para ser espectador de dicha actividad.
- Se ha unido a la lucha contra las "fábricas" de perros

concienciación social generalizada al respecto. Así, mientras que consideramos coherente la postura de Barack Obama, si la trasladamos a nuestro escenario particular, resulta pintoresca, y ello responde, a nuestra propia dicotomía, esto es, que aún no estamos suficientemente familiarizados ni concienciados, acerca de la necesidad de que se proteja el Bienestar de los Animales y precisamente, por ello, desde una perspectiva social, no resulta admisible (de forma generalizada) la realización de tales afirmaciones en público.

Manifestaciones en el mismo sentido, que evidencian el grado de concienciación extremo existente en las sociedades de los referidos Estados, aparecen de forma continuada en los medios de comunicación. En particular, consideramos oportuno hacer referencia a una noticia que versa sobre el deseo de una mujer norteamericana llamada **Leona Helmsley** conocida como la “ reina de la Maldad” (popular por ser acusada en un caso de evasión fiscal), que decidió dejar una herencia de 12 millones de dólares a su animal de compañía, un perro maltés y paralelamente desheredó a dos de sus nietos.

Así, observamos hasta qué grado, existe una sensibilización exacerbada entorno el derecho de los animales por cuanto se hace recaer en los mismos la posibilidad de recibir una herencia millonaria, sin que exista ningún tipo de impedimento legal para ello, lo cual contrasta con nuestra legislación en la que ni tan siquiera se podría plantear la posibilidad de que la herencia se hiciera recaer sobre un animal doméstico, **por cuanto ni tan siquiera existe una regulación a nivel estatal, que proteja el derecho de los animales.**

De esta manera, observamos que en tales países existe tal grado de concienciación, **que en ocasiones, puede hacerse prevalecer el interés que versa sobre un animal, sobre el de otros seres humanos, en aspectos que para nosotros, son absolutamente impensables.** Evidentemente, tal noticia debe ser interpretada en un determinado contexto, sin que en ningún caso, pretendamos afirmar que la misma constituya una regla general, pero en todo caso, tal posibilidad allí con independencia de que sea sorpresiva, es admisible, lo cual contrasta diametralmente con otros sistemas en los que **concurren posturas rígidas y bastante restringidas, entorno determinados conceptos.**

Precisamente, se observa **la prevalencia del interés de protección hacia los animales, sobre el de aquellos que no se encuentran suficientemente sensibilizados como para respetar su bienestar en Estados Unidos**, donde constituye una práctica habitual, para nosotros impensable, que se concreta en que efectivamente en casos en que existe crueldad infringida sobre un animal, se establece **una recompensa para aquellos que contribuyan a la resolución del caso, aportando información sobre las personas responsables del hecho realizado.**

Así a título de ejemplo, procede destacar un caso de crueldad **conocido como el Caso Jackson, que tiene lugar en Oregon**²⁸, el pasado día 7 de noviembre, cuando 3 vacas preñadas

²⁸ http://www.humanesociety.org/news/press_releases/2009/11/or_cow_cruelty_111109.html

son disparadas, de forma injustificada, quedando tan gravemente heridas, que dos de ellas tienen que ser sacrificadas a posteriori, mientras que la tercera fue arrastrada durante quilómetros, sin que quede acreditado que estuviera muerta durante el transcurso de tal trayecto (generando, quizás, un sufrimiento innecesario). En este caso, efectivamente se está ofreciendo una **RECOMPENSA DE 2500 \$**, por la aportación de información que conduzca a la identificación, captura y encarcelamiento del sujeto o sujetos responsables.

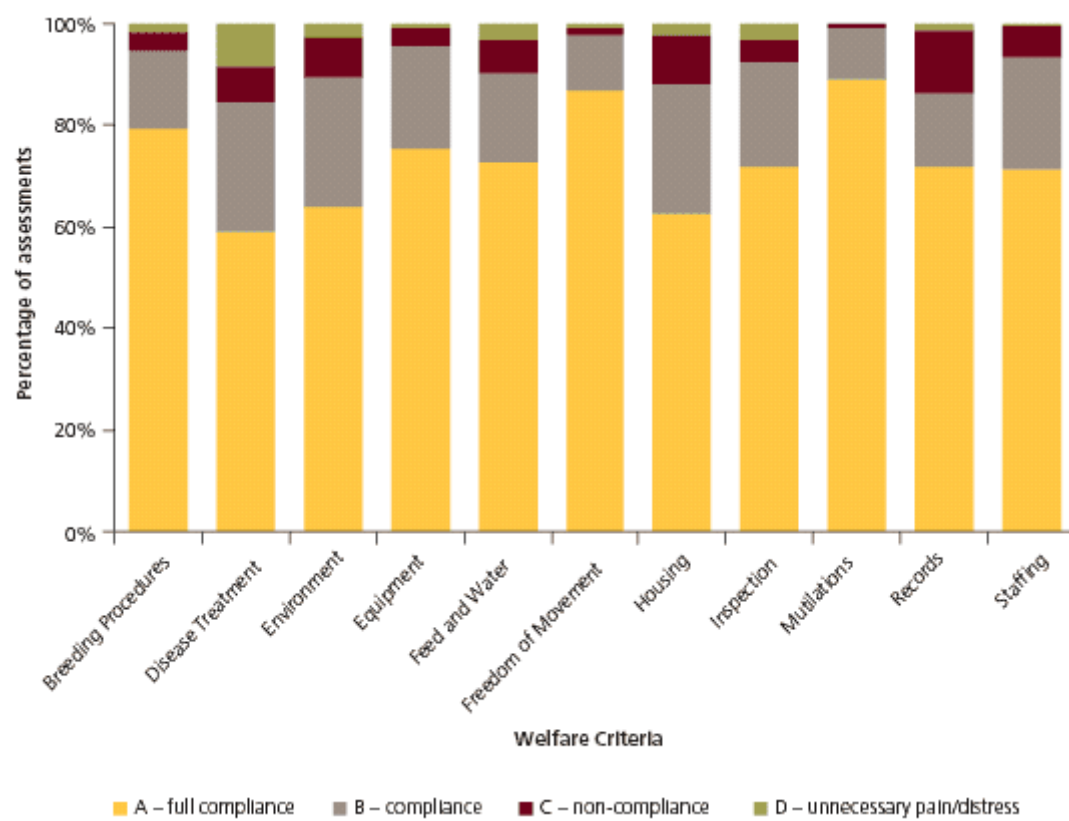
Por otra parte, y para finalizar, también consideramos oportuno hacer referencia a la otra cara de la moneda, esto es, el hecho de que exista una regulación al respecto, y de que en principio, ello suponga una concienciación generalizada por parte de la sociedad, **no genera la seguridad de que NO se produzcan abusos, ni que existan ámbitos reducidos en los que tal sensibilización sea absolutamente inexistente.** Así, para inducir a la reflexión consideramos oportuno, hacer referencia a un caso suficientemente mediatizado (en fecha de enero de 2007), en que **unos soldados norteamericanos aparecen maltratando a un perro discapacitado**²⁹. Consiguientemente, en el presente supuesto de hecho, pese a encontrarnos frente a soldados americanos, que en principio forman parte de las Fuerzas Armadas del Estado, y en consecuencia, lo representan, demuestran un evidente desprecio y falta de respeto frente a un animal, contraviniendo en representación del Estado, las regulaciones que por el mismo han sido aprobadas, que exigen un trato ejemplarizante hacia los animales (especialmente, si como ocurre en el presente supuesto de hecho, se trata de animales domésticos).

Las menciones realizadas, **a nuestro juicio evidencian la sensibilización presente en la sociedad entorno el derecho de bienestar de los animales**, y a pesar de que no pueden ser utilizadas como parámetros sociales generales, de la mismas se deducen actitudes, que se encuentran muy alejadas, de nuestro escenario particular, y en consecuencia, son muy significativas, por cuanto se refieren a demostraciones, y formas de actuación que no versan exclusivamente sobre la sociedad, sino también sobre figuras que representan al Estado.

Ahora bien, para concretar de una forma generalizada, cual es el grado de sensibilización real que existe en tales sociedades, es indefectiblemente necesario, que analicemos elementos, que demuestren patrones de conducta generalizada. Precisamente, entendemos que una forma de valorar tales patrones de conducta, se consigue a través de la consulta de estadísticas. A nuestro juicio, constituye un indicador que efectivamente demuestra cual es el grado de sensibilización real, se correlaciona con el nivel de cumplimiento o incumplimiento de las leyes y precisamente son tales estadísticas las que se pretenden analizar:

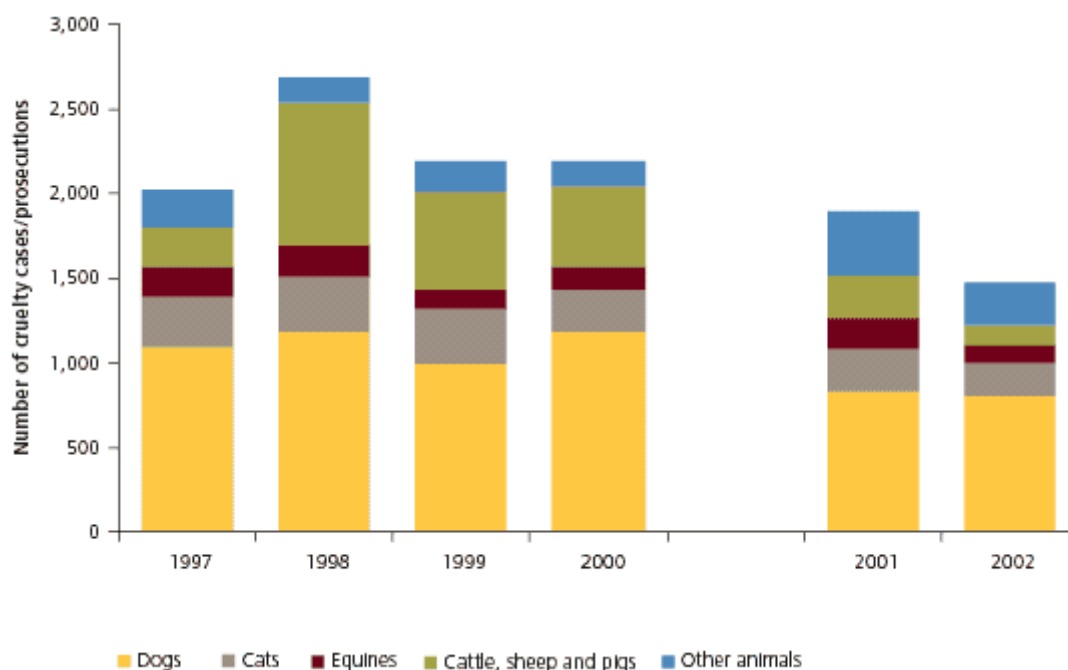
²⁹Consulta de video posible en http://www.youtube.com/watch?v=ay9d_t5cwyQ

Figura 1: Resultados Globales de las evaluaciones de la SVS sobre el Bienestar de los Animales en Gran Bretaña en 2002³⁰



³⁰ Fuente: Defra. Animal Welfare Veterinary Division

Figura 2: Número de casos de crueldad de (1997 a 2000) y (2001 a 2002) perseguidos por el RSPCA en Inglaterra y Gales, por el tipo de animal³¹



Cuadro 3: RSPCA condena y persecución de Inglaterra y Gales ³²

	1997	1998	1999	2000	2001	2002
Total convictions (condenas)	2,650	3,114	2,719	2,476	2,449	2,000
Defendants successfully prosecuted (demandados exitosamente procesados)	1,195	1,125	970	1,066	949	910
Cases received (casos recibidos)	1,776	1,798	1,723	1,830	1,598	1,666
Cases successfully convicted (casos de condena)	872	853	701	824	736	699
Cases unsuccessfully prosecuted (casos en que no se condena)	21	17	8	25	23	29
Defendants unsuccessfully prosecuted (demandados perseguidos sin éxito)	40	52	28	34	57	38
Juvenile offenders (delincuentes juveniles)	9	14	2	17	11	15
RSPCA prosecution costs (million)- Costes de la persecución	1.7	2.0	1.8	2.2	3.1	4.4
Costs awarded to Society (0.4	0.4	0.4	0.4	0.4	0.4

³¹ Fuente: RSPCA

³² Fuente: RSPCA

million)- Costes cubiertos por la sociedad						
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Cuadro 4: SSPCA ³³

	2002	2003
Incidents attended (incidentes que se atienden)	32,487	30,571
Telephone calls received (llamadas de teléfono recibidas)	90,797	88,235
Cases lodged with the Procurator Fiscal (casos presentados por el procurador fiscal)	53	34
<i>of which: (de los cuales :)</i>		
<i>Domestic (domésticos)</i>	34	27
<i>Farm (de granja)</i>	18	7
<i>Wildlife (animales salvajes)</i>	1	0

Por lo que se refiere al primer gráfico, procede destacar que versa sobre cuál es el grado de cumplimiento en materia de bienestar animal por parte de la sociedad, entendiendo que el mismo debe subdividirse **en cumplimiento total, cumplimiento, incumplimiento y sufrimiento innecesario.** Al respecto procede destacar que, en primera instancia, se observa que de forma generalizada el grado de cumplimiento total es muy elevado, **aspecto que por otra parte evidencia, la existencia de una concienciación social más o menos generalizada,** y a su vez, el nivel de incumplimiento y de sufrimiento innecesario, resulta muy reducido. Sin embargo, aquellos ámbitos en los que se observa un mayor grado de incumplimiento, y a su vez de sufrimiento innecesario son aquellos que recaen sobre el Tratamiento de enfermedades, la facilitación de comida y bebida, y por último la inspección.

Por lo que se refiere al segundo gráfico, que se refiere al número de casos de crueldad producidos en Gran Bretaña desde 1997 a 2002, así como qué especies son objeto de tales actos, procedería destacar que por una parte, se evidencia una notable reducción en el volumen de casos de crueldad. Así, desde 1998 (el punto álgido de número de casos de crueldad animal) hasta 2002, se produjo una reducción notoria, lo cual se correlaciona a nuestro juicio, con la adquisición de mayor concienciación, acerca de la regulación existente en materia de crueldad con los animales,

³³ Fuente: SSPA

puesto que efectivamente, los controles y la regulación ha avanzado con el paso del tiempo, y una reducción debe ser estimada como específicamente indicativa, de una mayor sensibilización social.

Por otra parte, consideramos oportuno hacer referencia a las especies que son objeto de crueldad. En primera instancia, se observa que **la tendencia de mayor volumen de maltrato** recae sobre los perros (y en un porcentaje considerable pero manifiestamente inferior a los gatos), produciéndose eminentemente tales actos de crueldad en un grado claramente superior. En segunda instancia, se observa una tendencia de maltratar en un mayor grado a otros animales (distintos de perros, gatos, vacunos, ovinos y porcinos), que debe ser tomada en consideración.

Las **CONCLUSIONES** que se extraen de tal figura son principalmente, que, paradójicamente, aquellos que infringen actos de crueldad sobre animales lo originan en un mayor grado sobre animales domésticos, con los que mantienen una relación más cercana y paralelamente, se evidencia, que existe un mayor grado de sensibilización social, por cuanto el volumen de animales que han sido objeto de maltrato se han reducido considerablemente.

Si examinamos (el Cuadro 3) observamos que efectivamente en el mismo se hace evidente que el número de PERSONAS CONDENADAS, por vulneración del derecho de bienestar animal se ha reducido desde 1997 a 2002 considerablemente, y paralelamente los acusados que han sido procesados con éxito también ha disminuido. Así, se podría llegar a la conclusión de que efectivamente, tal reducción responde al grado de efectividad de las leyes, y en consecuencia a su vez, al grado de sensibilización progresiva que tiene lugar en la sociedad. Paralelamente, reafirma tal idea, el hecho de que los casos que no son procesados son muy reducidos, así como el grado de delincuentes perseguidos sin éxito.

Sin embargo, se observa un indicador, al que consideramos debemos atribuirle una importancia determinada, concretado en que los delincuentes jóvenes, aunque en un grado ínfimo, se han incrementado desde 1997 a 2002, lo cual podría evidenciar si tal fenómeno tuviera lugar en un mayor grado, **que no existe suficiente concienciación social entre los delincuentes juveniles, en tanto que su participación en tales ofensas resulta cada vez más patente.**

A su vez, debemos examinar el volumen de Costes que ha implicado, la persecución de tales delitos en 1997 y ponerlos en relación con aquellos que tienen lugar en 2002, observando que se ha producido un incremento considerable de costes a este respecto (de 1,7 en 1997 a 4,4 en 2002) lo que evidencia, que existe un mayor interés en perseguir tales delitos por parte del Estado y que paralelamente, este coste no se hace recaer en los ciudadanos por cuanto su contribución se viene manteniendo desde 1997.

Así en virtud de las estadísticas referidas, se desprende que efectivamente, en la sociedad de Inglaterra y Gales, progresivamente, **está disminuyendo el grado de realización de actos de crueldad frente a los animales**, en tanto que pese los recursos que para ello se destinan son superiores, **el número de casos se ha venido reduciendo progresivamente, lo cual por consiguiente indica un mayor grado de sensibilización.**

Por otra parte, y para finalizar, procede que nos refiramos a aquellas estadística emitidas por la Sociedad Escocesa para la prevención de animales (The Scottish Society for the Prevention of Cruelty to Animals- SSPCA)³⁴ de las cuales se desprende que en primera instancia, el número de demandas se ha reducido considerablemente (pese a que el volumen de incidentes es extremadamente elevado) aunque se sitúa en una cifra aproximada de treinta mil demandas y a su vez ochenta y ocho mil llamadas de teléfono, que es una cifra elevadísima, representativa del grado de sensibilización extremo existente en Reino Unido, por cuanto denota que una gran parte de la sociedad, al encontrarse frente casos de crueldad con los animales, no se mantiene impasible, sino que adopta una posición activa, de rechazo, contribuyendo para que las leyes que versan sobre la Crueldad infringida con los animales, se hagan efectivas.

Paralelamente, se indica que el Procurador Fiscal, ha presentado DE OFICIO un cierto NÚMERO de casos, que no resulta muy elevado pero que también debe tomarse en consideración, **versando mayoritariamente, sobre animales domésticos y animales de granja, y muy residualmente, sobre animales salvajes.**

Este elemento, también debe ser específicamente valorable, por cuanto, en nuestro Estado, resultaría muy polémica, probablemente, la presentación a instancia del Ministerio Fiscal, de determinados casos en relación con los derechos de los animales, lo cual paralelamente, en el caso de Reino Unido, evidencia, que efectivamente la protección de los derechos de los animales, constituye una prioridad, y en consecuencia, se realizan actos en ese sentido, para aumentar y avanzar sobre tal nivel de protección.

³⁴ Sociedad es responsable de toda la protección de animales en Escocia. La sociedad interviene en el bienestar práctico de los animales, la aplicación efectiva de la ley, así como campañas y educación.

CONCLUSIONES FINALES RESPECTO EL GRADO DE SENSIBILIZACIÓN SOCIAL

- De los casos individuales se desprende la importancia que se atribuye a la protección de los Derechos de los Animales.
- **A través de las estadísticas: Mediante** tanto la REDUCCIÓN EN EL GRADO DE INCUMPLIMIENTO, como del AUMENTO CRECIENTE DEL NÚMERO DE DEMANDAS, se evidencia del grado de concienciación social.
- No únicamente, la legislación es efectiva para concienciar, sino que la propia sociedad no se mantiene impasible **FRENTE A LAS VULNERACIONES DEL DERECHO DE LOS ANIMALES.**
- Por el contrario adopta una posición **ACTIVA DE RECHAZO, PARA GARANTIZAR LA EFECTIVIDAD DE LA LEGISLACIÓN Y SU AVANCE** lo cual a su vez contrasta con nuestra propia sociedad, en la cual tal posición activa de rechazo, aún es inapreciable, en un sentido general.

Mención especial: a la experimentación con animales

Figura 5. Experimentos o procedimientos empezados cada año 1945-2008

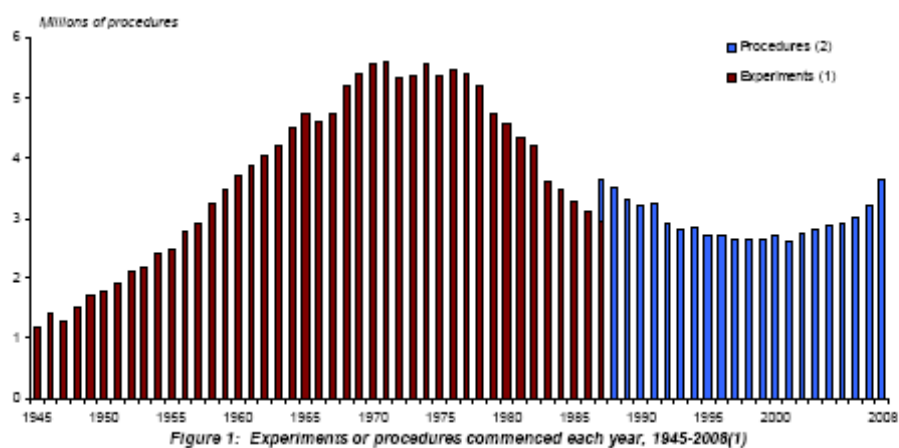


Figura 6. Procedimientos por especie de animal 2008

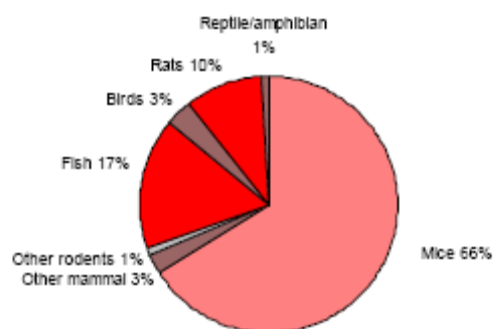


Figura 7: Procedimientos utilizando ratones, ratas y peces de 1995 a 2008

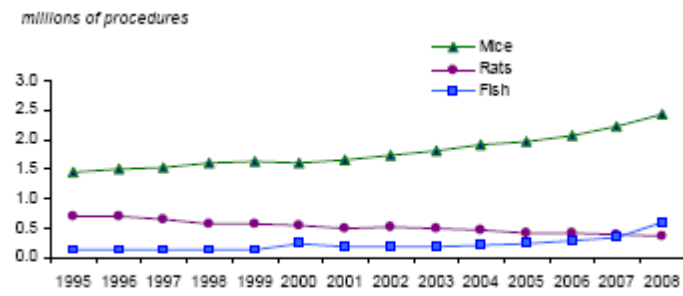


Figure 3: Procedures using mice, rats and fish 1995-2008

Species of animal	Primary purpose of the procedure								Number of procedures	
	Fundamental biological research	Applied studies - human medicine or dentistry	Applied studies - veterinary medicine	Protection of man, animals or environment	Education	Training	Forensic enquiries	Direct diagnosis	Breeding	Total
Mammal										
Mouse	775,746	355,728	17,365	17,545	841	-	-	12,857	1,238,522	2,418,604
Rat	96,415	216,653	75	26,275	609	777	-	517	14,049	355,370
Guinea pig	1,753	25,921	1,333	-	118	-	-	168	-	29,293
Hamster	1,283	1,439	576	-	-	-	-	-	-	3,298
Gerbil	515	542	27	-	-	-	-	-	8	1,092
Other rodent	416	235	-	215	-	-	-	-	-	866
Rabbit	1,157	11,232	1,954	1,632	16	-	-	1,069	-	17,060
Cat	61	-	299	-	-	-	-	-	-	360
Dog										
Beagle	5	5,499	130	403	-	-	-	37	-	6,074
Greyhound	-	-	-	-	-	-	-	-	-	-
Other inc cross-breds	-	-	31	-	-	-	-	-	-	31
Ferret	319	744	6	-	12	-	-	41	-	1,122
Other carnivore	654	-	495	115	-	-	-	-	-	1,264
Horse and other equids	135	4	257	-	-	-	-	8,969	-	9,365
Pig	1,241	1,284	4,092	73	-	-	-	-	134	6,824
Goat	72	10	395	10	-	-	-	12	-	499
Sheep	5,118	992	2,344	-	-	-	-	27,280	86	35,820
Cattle	986	-	1,312	-	-	-	-	4	-	2,302
Deer	63	-	-	-	-	-	-	-	-	63
Camelid	-	-	-	-	-	-	-	-	-	-
Other ungulate	-	-	-	-	-	-	-	-	-	-
Primate										
Prosimian	-	-	-	-	-	-	-	-	-	-
New World monkey										
marmoset, tamarin	93	275	-	-	-	-	-	-	-	368
Squirrel, owl, spider monkey	-	-	-	-	-	-	-	-	-	-
Other New World monkey	-	-	-	-	-	-	-	-	-	-

Hasta el momento, la focalización de nuestro análisis se ha dirigido al examen de elementos que evidencien el grado de concienciación social existente entorno el Derecho de los Animales en un sentido genérico, y para ello, hemos observado tanto el grado de cumplimiento como incumplimiento de la regulación vigente y a su vez, el grado de defensa evidenciado por los particulares (a partir del análisis de determinadas noticias), sin embargo, ello exclusivamente constituye el primer paso, en tanto que efectivamente **a ninguna persona con una sensibilización de carácter media (ni incluso a una persona concienciada, en un ámbito muy reducido) escaparía que el hecho de que la realización de actos de Crueldad con los Animales, o bien la privación de que los mismos, pudieran vivir en situación de comodidad, resultaría inadmisibles, y ciertamente reprobable.**

Así, en principio, existe la consideración generalizada, de que tales actos no se deben permitir (con independencia de que en función del grado de concienciación de una u otra sociedad, se adopte una postura más o menos activa). Ahora bien, en el caso de que nos situemos frente a un tema, en que los seres humanos tengamos un interés particular, se plantea la disyuntiva, de si los derechos de los animales deben prevalecer.

Un tema muy debatido, en el marco de la sociedad, es si la experimentación con animales, debe admitirse o si por el contrario, debe reclamarse la necesidad de optar por otras regulaciones. Como se ha referido con anterioridad, es en Reino Unido, donde existe una regulación más avanzada al respecto, puesto que en Estados Unidos, la protección legal, es más bien reducida, remitiéndose su vigilancia a un control institucional, precisamente por ello estimamos oportuno examinar, **cual es el ámbito de concienciación real de la sociedad de Reino Unido, entorno la utilización de animales en experimentos científicos y por otra parte, deberemos examinar cuales son los animales más afectados por tales prácticas.**

Para ello, nos remitiremos a unas estadísticas publicadas por Home Office, sobre la experimentación con animales. En primera instancia, nos referiremos (ver Figura 5), a la evolución en el número de experimentos o procedimientos efectuados con animales. Así, observamos claramente que desde 1976 se ha producido una reducción en el número de experimentos efectuados con animales. Sin embargo a partir del 2000 hasta 2008, los procedimientos se han visto incrementados.

A su vez, en cuanto las especies empleadas para tales estudios (Ver Figura 6), procede destacar que se emplean específicamente Ratones (en un 66 %) y Peces (en un 17 por ciento).

En este mismo sentido, en el siguiente gráfico (Figura 7) se efectúa una comparación entre el **número de ratones, ratas y peces empleados en experimentos desde 1995**, evidenciándose una tendencia en la misma dirección, esto es, los más empleados **son los Ratones y a su vez, desde 1995 se ha observado un evidente crecimiento de su utilización, y para el caso de los peces, pese a que se utilizan en un menor grado, también se experimenta una clara tendencia a INCREMENTAR su uso.**

Paralelamente, en el **Cuadro nº 8** se observa que los perros, los gatos y los primates son los que han sido menos utilizados en el marco de todos los procedimientos.

Tales premisas, entendemos que ostentan una significación particular: de esta manera, **el hecho de que la experimentación verse sobre determinados animales, es muy significativo, en tanto que se observa que aquellas especies que tradicionalmente mantienen algún tipo de relación con el hombre, en el caso de los gatos y los perros, por ser considerados como animales domésticos y a su vez los primates por su relación con el hombre, casualmente, son aquellos que menos se emplean en experimentos científicos.**

Así, el hecho de que se utilicen ratones para experimentos es muy significativo, y demuestra que nosotros mismos guardamos un respeto a los animales, en función de la relación que mantenemos con ellos. De esta manera, más allá de argumentos redirigidos a una mayor facilidad de reproducción por parte de los ratones, se ocultan a nuestro entender, motivaciones relacionadas con nuestros propios intereses. Así, consideramos, menos oportuno utilizar a determinados animales, que entendemos como nuestros semejantes, por la relación que mantenemos con los mismos.

Ahora bien, la pregunta que debemos plantearnos, **es: que motivos impulsan la experimentación con animales?** Porque conociendo cual es el propósito concreto perseguido, podremos observar hasta que punto existe la percepción de que la experimentación con animales, debe interpretarse como una alternativa, y por lo tanto debe evitarse en la medida de lo posible.

En este sentido, procede destacar que, el objetivo principal para el cual se emplea la experimentación con animales (de conformidad con el **CUADRO Nº 8**), es **para su cría y para la investigación biológica fundamental y en un considerable menor grado, para la investigación sobre estudios de veterinaria y medicina.**

En consecuencia, debemos entender que efectivamente, la experimentación con animales, se limita a **ámbitos elementales de investigación** (que les pueden beneficiar a ellos mismos), así se observa que los ámbitos que podrían suponer un beneficio humano, como por ejemplo la aplicación para estudios de medicina que podrían ser beneficiosos para los seres humanos o bien el ámbito de diagnóstico directo, que serviría para poder detectar enfermedades, es un ámbito considerablemente reducido, de la misma manera que prácticamente se ha eliminado, la experimentación con animales que pretenda obtener educación y la formación, por cuanto, para tales actos, existen otros métodos alternativos.

Consiguientemente, entendemos que atendiendo a que el volumen de experimentación se ha reducido notablemente, y paralelamente, que tal experimentación versa sobre ámbitos concretos en los que concurren intereses de los propios animales, no exclusivamente humanos, entendemos que efectivamente, ello denota una cierta concienciación social, por cuanto, se buscan alternativas que sustituyan determinados métodos que supongan poner fin a la vida de animales de forma innecesaria.

Sin embargo, tales conclusiones, se fundamentan en estadísticas, bajo las cuales entendemos o podemos llegar a intuir, percepciones sociales, ahora bien, para efectivamente concluir, cual es la percepción social que se existe al respecto, sería necesario hacer una consulta directa con el público.

Precisamente, por ello, nos remitimos a una consulta efectuada por el Consejo de la Unión Europea³⁵ a través de su página web que se llevó a cabo entre octubre y diciembre de 2003³⁶ puesto que en la misma se evidencia tanto la concienciación social existente en la UE, como la percepción social de la regulación de Reino Unido.

En primera instancia, se inquiría cuáles eran sus puntos de vista entorno los animales en el marco de la investigación. **Muchos de ellos mencionaron, que desde su punto de vista la investigación con animales había ocasionado numerosos avances en la biología y medicina. Ahora bien, el hecho de que se reconociera tal mérito, en ningún caso debía confundirse con una utilización indiscriminada e ilimitada de los mismos con objetivos humanos.**

Por el contrario, entendían que su admisibilidad dependía del objetivo de la investigación, y de los métodos empleados así como las especies implicadas.

A su vez, también algunos participantes, invocaban que en ningún caso debería considerarse admisible, porque no era ético utilizar animales para la investigación (independientemente del propósito) , mientras que otros defendían que no era seguro trasladar los resultados obtenidos en tales experimentos, a los seres humanos.

Paralelamente, se preguntaba cuáles eran sus opiniones, entorno la adopción de medidas alternativas, y mayoritariamente, se pugnaba por las mismas (siempre que fuera posible). Sin embargo, en tal pregunta, también intervinieron científicos que afirmaron que el uso de animales se había reducido en la medida de lo posible, y que se utilizaba solo cuando era necesario.

Otra de las preguntas realizadas, versaba sobre si la experimentación con animales debía ser considerada no ética. Al respecto, existieron respuestas que de forma mayoritaria abogaban por la no utilización de animales, considerando que debería existir una mayor preocupación por los mismos y su sufrimiento. Contrastando con tal postura, otros, consideraban que es un deber moral, utilizar la investigación para aliviar el sufrimiento humano y para aliviar su calidad de vida y otros (

³⁶ Aproximadamente 600 copias fueron difundidas y 2.503 fueron descargadas del sitio Web. Se recibieron 160 respuestas, entre individuales (115) y organizaciones (53), se recibieron respuestas de 9 países.

de forma minoritaria) concebían que su ausencia de capacidad de razonar implicaba la inexistencia de derechos.

Una vez, habiendo realizado tales consideraciones se preguntó a los encuestados, sobre la opinión que les merecía la regulación en Reino Unido sobre los Animales.

Al respecto entendieron de forma mayoritaria que la regulación existente en Reino Unido era más estricta que otras, y esto fue considerado positivamente, por unos, por otros insuficiente, y por otros burocrático y que obstaculizaba el proceso de evolución.

Así, en definitiva, una vez habiendo analizado mediante una relación directa con el público, cual es la percepción generalizada de la experimentación con animales, procede destacar que en primera instancia, se podría llegar a la conclusión de que en principio, existe una concienciación social suficiente como para considerar que la experimentación con animales, no debe ser admisible, sin limitaciones, y que a su vez, en caso de que se mantenga la experimentación con animales, debe intentar reducirse el dolor o el sufrimiento. Sin embargo, si existe tal percepción a nivel europeo, porque en todas las regulaciones, no existe una modificación de tal tendencia? Pues bien, efectivamente, no se genera una modificación de tendencias, por cuanto, es en Reino Unido donde existe una legislación más restrictiva. Tal legislación más estricta, es observada como favorable por unos y criticada por otros, pero la realidad es que la existencia de tales resultados son imputables a los propios ciudadanos, puesto que sin su sensibilización entorno el Derecho de los Animales, probablemente no se habría generado tal regulación.

CONCLUSIÓN FINAL

- En el caso de la experimentación animal se plantea la disyuntiva de que interés debe prevalecer, y precisamente por ello, es más difícil hablar de concienciación social.
- El hecho de que la experimentación animal verse sobre determinados animales es muy significativo – puesto que se evita que determinados animales que mantienen una posición de proximidad con el hombre: primates, animales paradigmáticamente domésticos (gatos, perros) se empleen y sin embargo los animales más utilizados son los RATONES.
- Más allá de afirmar que su facilidad de reproducción, entendemos que no es casual, escoger a RATONES, EN LUGAR DE OTROS ANIMALES CON LOS QUE OSTENTAMOS UNA RELACIÓN DE PROXIMIDAD- POR CONSIDERARLOS NUESTROS SEMEJANTES.
- Sin embargo, atendiendo que el volumen de experimentación con animales se ha reducido considerablemente, entendemos que ello origina una cierta concienciación social, por cuanto se buscan alternativas que sustituyan TALES MÉTODOS.
- Tales premisas vienen confirmadas, por la opinión que el público manifiesta, en la que se evidencia, que efectivamente, la experimentación animal, continua siendo un tema que origina un arduo debate, pero que mayoritariamente, se ha extendido el posicionamiento (

incluso por parte de aquellos que la entienden como favorable para el avance) de que deben introducirse limitaciones.

5. CURIOSIDADES DE LA REGULACIONES DE REINO UNIDO Y ESTADOS UNIDOS

Hasta el momento, se ha pretendido generar una visión ajustada de la realidad respecto la protección del Derecho de Bienestar Animal en Reino Unido y Estados Unidos, sin embargo, entendemos que, como en cualquier legislación, las mismas plantean ciertas problemáticas, problemáticas que simplemente demuestran, que el Derecho de Bienestar Animal, siempre puede y debe ser mejorable, y que a su vez, nos permiten refugiarnos en la esperanza, de que nos espera algo mejor.

Precisamente, por ello, hemos decidido, hacer referencia en este apartado, a curiosidades entorno el Derecho de bienestar animal en Reino Unido y Estados Unidos, que demuestren, que incluso en tales estados, es posible, encontrar aspectos insatisfactorios y que generan estupefacción.

Para empezar, consideramos oportuno hacer referencia a una publicación del Diario “ The Times” en que se hacía referencia a las 25 leyes más absurdas del mundo³⁷ formando parte de la lista determinadas normas, de Reino Unido y Estados Unidos que versan sobre el Derecho de los animales:

- Así, la primera norma establece que según una legislación británica, si aparece una ballena muerta en las costas británicas, la cabeza es del Rey. Sin embargo, la cola pertenece a la reina, en el caso que necesite los huesos para su corsé.
- En la quinta norma, se predetermina que en la ciudad estadounidense de Boulder, Colorado, es ilegal matar un pájaro dentro de los límites de la ciudad, así como ser el dueño de una mascota.
- En la doceava regulación se establece que está permitido pasear un rebaño de ovejas a lo largo del Puente de Londres sin tener que pagar peaje, lo mismo que ocurre con los gansos en Cheapside.
- En Ohio (EEUU) es ilegal tener un pez borracho.
- En la última norma se dispone que va contra la ley que un taxi transporte cadáveres o **perros rabiosos en Londres.**

³⁷ Se adjunta Lista original publicada por el the Times, así como la noticia recogida por el propio Diario Español 20 minutos .Ver Anexo II pág 150

Todas las normas referidas, consideradas por el The Times como “ absurdas”, son ridículas de entrada, pero aun lo son más si tomamos en consideración que tal regulación se encuentra en países que de forma modélica han impulsado la regulación del Derecho de los Animales, y precisamente, debido a su avance, deberían haber eliminado tales previsiones que son absolutamente arcaicas(que podrían tener un sentido en el momento en que se regularon) pero que son absolutamente injustificadas en el contexto actual. Sin embargo, particularmente hemos querido hacer una mención final a las mismas, puesto que son demostrativas, de que efectivamente, incluso en regulaciones tan avanzadas en el marco de los Derechos de los Animales, pueden encontrarse regulaciones absurdas, que deben ser objeto de modificación, porque en caso contrario, resultan totalmente incoherentes e irracionales entrando en conflicto con la regulación general.

Una vez habiendo demarcado tales curiosidades estimamos oportuno hacer referencia a un estudio efectuado en Estados Unidos³⁸, que observa qué nivel de protección existe en cada uno de los Estados que conforman Estados Unidos y efectúa un análisis comparativo de las leyes de protección animal, estableciendo cuales son los 5 países con mejores legislaciones y cuáles son los 5 países con peores legislaciones.

El estudio analizó las leyes promulgadas y su cumplimiento. Se analizaron estado a estado: las prohibiciones generales, sanciones, exenciones, evaluaciones de salud mental y consejería, órdenes de protección, costos de recuperación, incautación y embargo, decomiso posterior a la convicción de posesión, informes de agencias sobre sospechas de crueldad animal, notificaciones veterinarias de sospecha de crueldad animal, políticas de aplicación de la ley, ataques sexuales.

Según el ranking, las mejores legislaciones de protección animal -y el sistema con que se hacen cumplir- **son las promovidas en los estados de California, Illinois, Maine, Michigan y Oregon. También están bien configurados**, pero son mejorables de cara a las legislaciones de otros estados los sistemas de Colorado, Delaware, Kansas, Massachusetts, Minnesota, Puerto Rico, Rhode Island, Tennessee, Washington, West Virginia, Wisconsin, Vermont, Virgin Islands y Virginia.

¿Por qué son los mejores?

- La crueldad y la negligencia con los animales están tipificadas como un delito. En algunos estados también lo son el abandono y el abuso sexual.

³⁸ Fuente: [Animal Legal Defense Foundation](#)

- Algunos estados establecen penas mayores para maltratadores reincidentes y personas con Síndrome de Diógenes (acumulación insalubre y cruel de animales abandonados).
- Algunos estados obligan a hacer evaluaciones mentales de forma previa a la sentencia judicial.
- Protección animal abarca a todos los animales.
- Amplio rango de protección legal.
- Los tribunales pueden aconsejar programas de manejo de la ira para los maltratadores.
- Existen algunas medidas obligatorias para reducir los costes y medidas de recuperación de los animales incautados.
- Algunas agencias seleccionadas pueden recoger sospechas de crueldad con los animales.
- Incautación obligatoria de los animales maltratados.
- Decomiso obligatorio de los animales en caso de prisión del maltratador.
- Permite el decomiso de animales previo a la prisión del delincuente.
- Obliga a los veterinarios a emitir informes de crueldad hacia los animales.
- Los agentes humanitarios hacen cumplir la ley con amplia autoridad.
- Órdenes de protección a los inocentes de un crimen pueden incluir también a los animales.
- Los tribunales en algunos estados pueden ordenar restricciones en la futura tenencia de animales a los maltratadores, después de la prisión.
- Algunos estados permiten que ciertas organizaciones escogidas, no dedicadas a los animales, denuncien casos de crueldad.
- En Michigan, todo agente policial o de seguridad tiene el deber de hacer cumplir las leyes de protección de los animales.
- Oregon establece penas mayores para maltratadores reincidentes y para maltratadores por violencia doméstica. También establece penas más altas cuando el crimen se comete en presencia de un menor.

Los peores

Los peores estados son Arkansas, Idaho, Kentucky, Mississippi y Dakota del Norte. No lejos de estas legislaciones desfavorecedoras están las de Alabama, Alaska, Samoa Americana, Arkansas, Guam, Hawaii, Iowa, Montana, New Jersey, Nuevo Mexico, Carolina del Norte, Islas Marianas, Dakota del Sur y Wyoming.

Los estados de Arizona, Connecticut, Distrito de Columbia, Florida, Georgia, Indiana, Louisiana, Maryland, Missouri, Nebraska, New Hampshire, New York, Nevada, Oklahoma, Ohio,

Pennsylvania, Carolina del Sur, Texas y Utah son legislaciones intermedias, mejorables en todo sentido.

¿Por qué son peores?

- La crueldad, negligencia o abandono de animales no es un delito.
- Establecen definiciones y estándares inadecuados de cuidados básicos a los animales.
- No incrementan las penas para los reincidentes.
- Inadecuación de los costes de mitigación y recuperación de animales incautados (ej. costos de atención, reembolso de gastos, restitución y disposiciones del derecho de retención).
- No existen disposiciones legales en caso de notificación de sospecha de abuso de animales.
- Insuficiencia en la disposición de recursos humanos y oficiales que hagan cumplir las leyes de protección animal.
- Disposiciones inadecuadas contra las peleas de animales.
- Ninguna restricción sobre el futuro de la posesión de animales a raíz de un encarcelamiento.
- Inexistencia de evaluaciones de salud mental y consejería para los maltratadores.
- No existe decomiso de los animales maltratados (siguen con los maltratadores).
- La violación sexual de un animal no es crimen.

Hemos considerado oportuno recoger tal estudio, puesto que efectivamente, resulta específicamente curioso, el hecho de que, tal y como se ha incluido con posterioridad, los mecanismos de protección de la crueldad con los animales, se hagan recaer en cada uno de los Estados, y precisamente, ello condiciona, una multiplicidad de regulaciones que atribuyen distintos grados de protección. Así, para que efectivamente, existiera., a tal respecto una protección unificada, debería ser necesario que se aprobara una ley con carácter general, que a diferencia del Animal Welfare Act (de Estados Unidos), se ocupara específicamente, de la Crueldad con los Animales.

Sin embargo, aún situándonos en el marco de aquellas legislaciones de Estados Unidos consideradas peores, a la luz del referido estudio, que efectúa un análisis de la protección atribuida en Estados Unidos en materia de maltrato y prevención de la crueldad con los animales, si nos atrevemos a criticarlos, como estamos entonces en nuestros países?

CONCLUSIONES FINALES

En el presente trabajo, pretendíamos analizar la legislación de Reino Unido y ponerla en relación con la legislación americana en materia de Derecho de Bienestar Animal, pretendiendo delimitar si tales legislaciones son efectivamente, modélicas.

Para ello, hemos partido de una hipótesis inicial concreta: la declaración de derechos del animal, resolviendo de entrada que efectivamente, tal declaración, DEBERÍA SER UN CODIGO DE CONDUCTA para todos los Estados.

Sin embargo, atendiendo, que constituye una declaración, que pese haber sido aceptada por la ONU y la UNESCO, ello no implica que ostente carácter vinculante, hemos decidido comprobar, si efectivamente, en la práctica las legislaciones consideradas modélicas la ADOPTAN o si por el contrario, se reduce a mero papel mojado.

Del presente estudio, efectivamente, hemos llegado a la conclusión de que en ningún caso, podría defenderse su cumplimiento, **en tanto que ni en las mismas se protege a TODOS los animales, ni puede afirmarse que nos encontremos ANTE UN ESTEREOTIPO IDEAL, sino que por el contrario, debe y puede ser objeto de mejoras constantes.**

Por otra parte, entendiendo como entendemos, que la sociedad, en el marco del DERECHO, y en concreto en el derecho de bienestar animal, ostenta una importancia vital, por cuanto, es a quien corresponde, reclamar el reconocimiento y el respeto de tales derechos, nos habíamos planteado, si efectivamente, existía una relación directa entre el grado de concienciación social y la protección atribuida por la legislación. A este respecto, procede destacar que, como mínimo puede afirmarse que el grado de concienciación social es elemental, puesto que en una legislación avanzada como la de Reino Unido, contribuye a su avance indiscutiblemente la pugna que efectúa la propia sociedad que impulsa y contribuye el avance de tales derechos, con una posición activa, que en ningún caso soporta ni permite, que se produzca indiscriminadamente el abuso del derecho de los animales.

Como corolario de todo lo anterior, podríamos concluir que efectivamente no ofrece duda alguna, que la legislación de Reino Unido y Estados Unidos, en materia de bienestar animal, es claramente criticable y mejorable, pero desde nuestra alejada y arcaica perspectiva , únicamente estamos en posición de tomarlas como modelo.

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ANEXO I: LEGISLACIÓN REINO UNIDO



Animal Welfare Act 2006

2006 CHAPTER 45

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An Act to make provision about animal welfare; and for connected purposes.

[8th November 2006]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Introductory

1 Animals to which the Act applies

(1) In this Act, except subsections (4) and (5), “animal” means a vertebrate other than man.

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

(3) The appropriate national authority may by regulations for all or any of the purposes of this Act—

(a) extend the definition of “animal” so as to include invertebrates of any description;

(b) make provision in lieu of subsection (2) as respects any invertebrates included in the definition of “animal”;

(c) amend subsection (2) to extend the application of this Act to an animal from such earlier stage of its development as may be specified in the regulations.

(4) The power under subsection (3)(a) or (c) may only be exercised if the appropriate national authority 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.

2 “Protected animal”

An animal is a “protected animal” for the purposes of this Act if—

(a) it is of a kind which is commonly domesticated in the British Islands,

(b) it is under the control of man whether on a permanent or temporary basis, or

(c) it is not living in a wild state.

3 Responsibility for animals

(1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.

(2) In this Act, references to being responsible for an animal include being in charge of it.

(3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.

(4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.

Prevention of harm

4 Unnecessary suffering

(1) A person commits an offence if—

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

(b) he 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 protected animal, and

- (d) the suffering is unnecessary.
- (2) A person commits an offence if—
 - (a) he is responsible for an animal,
 - (b) an act, or failure to act, of another person causes the animal to suffer,
 - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and
 - (d) the suffering is unnecessary.
- (3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include—
 - (a) whether the suffering could reasonably have been avoided or reduced;
 - (b) whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment;
 - (c) whether 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) whether the suffering was proportionate to the purpose of the conduct concerned;
 - (e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.
- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

5 Mutilation

- (1) A person commits an offence if—
 - (a) he carries out a prohibited procedure on a protected animal;
 - (b) he causes such a procedure to be carried out on such an animal.
- (2) A person commits an offence if—
 - (a) he is responsible for an animal,
 - (b) another person carries out a prohibited procedure on the animal, and
 - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.
- (3) References in this section to the carrying out of a prohibited procedure on an animal are to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment.
- (4) Subsections (1) and (2) do not apply in such circumstances as the appropriate national authority may specify by regulations.
- (5) Before making regulations under subsection (4), the appropriate national authority shall consult such persons appearing to the authority to represent any interests concerned as the authority considers appropriate.
- (6) Nothing in this section applies to the removal of the whole or any part of a dog's tail.

6 Docking of dogs' tails

- (1) A person commits an offence if—
 - (a) he removes the whole or any part of a dog's tail, otherwise than for the purpose of its medical treatment;
 - (b) he causes the whole or any part of a dog's tail to be removed by another person, otherwise than for the purpose of its medical treatment.
- (2) A person commits an offence if—
 - (a) he is responsible for a dog,
 - (b) another person removes the whole or any part of the dog's tail, otherwise than for the purpose of its medical treatment, and
 - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.

(3) Subsections (1) and (2) do not apply if the dog is a certified working dog that is not more than 5 days old.

(4) For the purposes of subsection (3), a dog is a certified working dog if a veterinary surgeon has certified, in accordance with regulations made by the appropriate national authority, that the first and second conditions mentioned below are met.

(5) The first condition referred to in subsection (4) is that there has been produced to the veterinary surgeon such evidence as the appropriate national authority may by regulations require for the purpose of showing that the dog is likely to be used for work in connection with—

- (a) law enforcement,
- (b) activities of Her Majesty's armed forces,
- (c) emergency rescue,
- (d) lawful pest control, or
- (e) the lawful shooting of animals.

(6) The second condition referred to in subsection (4) is that the dog is of a type specified for the purposes of this subsection by regulations made by the appropriate national authority.

(7) It is a defence for a person accused of an offence under subsection (1) or (2) to show that he reasonably believed that the dog was one in relation to which subsection (3) applies.

(8) A person commits an offence if—

- (a) he owns a subsection (3) dog, and
- (b) fails to take reasonable steps to secure that, before the dog is 3 months old, it is identified as a subsection (3) dog in accordance with regulations made by the appropriate national authority.

(9) A person commits an offence if—

- (a) he 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 England and Wales or elsewhere), and
- (c) removal took place on or after the commencement day.

(10) Where a dog is shown only for the purpose of demonstrating its working ability, subsection (9) does not apply if the dog is a subsection (3) dog.

(11) It is a defence for a person accused of an offence under subsection (9) to show that he reasonably believed—

- (a) that the event was not one to which members of the public were admitted on payment of an entrance fee,
- (b) that the removal took place before the commencement day, or
- (c) that the dog was one in relation to which subsection (10) applies.

(12) A person commits an offence if he knowingly gives false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of this section.

(13) The appropriate national authority may by regulations make provision about the functions of inspectors in relation to—

- (a) certificates for the purposes of this section, and
- (b) the identification of dogs as subsection (3) dogs.

(14) Power to make regulations under this section includes power—

- (a) to make different provision for different cases, and
- (b) to make incidental, supplementary, consequential or transitional provision or savings.

(15) Before making regulations under this section, the appropriate national authority shall consult such persons appearing to the authority to represent any interests concerned as the authority considers appropriate.

(16) In this section—

“commencement day” means the day on which this section comes into force;

“subsection (3) dog” means a dog whose tail has, on or after the commencement day, been wholly or partly removed without contravening subsection (1), because of the application of subsection (3).

7 Administration of poisons etc.

- (1) A person commits an offence if, without lawful authority or reasonable excuse, he—
 - (a) administers any poisonous or injurious drug or substance to a protected animal, knowing it to be poisonous or injurious, or
 - (b) causes any poisonous or injurious drug or substance to be taken by a protected animal, knowing it to be poisonous or injurious.
- (2) A person commits an offence if—
 - (a) he is responsible for an animal,
 - (b) without lawful authority or reasonable excuse, another person administers a poisonous or injurious drug or substance to the animal or causes the animal to take such a drug or substance, and
 - (c) he permitted that to happen or, knowing the drug or substance to be poisonous or injurious, he failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.
- (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.

8 Fighting etc.

- (1) A person commits an offence if he—
 - (a) causes an animal fight to take place, or attempts to do so;
 - (b) knowingly receives money for admission to an animal fight;
 - (c) knowingly publicises a proposed animal fight;
 - (d) provides information about an animal fight to another with the intention of enabling or encouraging attendance at the fight;
 - (e) makes or accepts 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) takes part in an animal fight;
 - (g) has in his possession anything designed or adapted for use in connection with an animal fight with the intention of its being so used;
 - (h) keeps or trains an animal for use for in connection with an animal fight;
 - (i) keeps any premises for use for an animal fight.
- (2) A person commits an offence if, without lawful authority or reasonable excuse, he is present at an animal fight.
- (3) A person commits an offence if, without lawful authority or reasonable excuse, he—
 - (a) knowingly supplies a video recording of an animal fight,
 - (b) knowingly publishes a video recording of an animal fight,
 - (c) knowingly shows a video recording of an animal fight to another, or
 - (d) possesses a video recording of an animal fight, knowing it to be such a recording, with the intention of supplying it.
- (4) Subsection (3) does not apply if the video recording is of an animal fight that took place—
 - (a) outside Great Britain, or
 - (b) before the commencement date.
- (5) Subsection (3) does not apply—
 - (a) in the case of paragraph (a), to the supply of a video 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) Provision extending the application of an offence under subsection (3), so far as relating to the provision of information society services, may be made under section 2(2) of the European Communities Act 1972 (c. 68) (powers to implement Community obligations by regulations)

notwithstanding the limits imposed by paragraph 1(1)(d) of Schedule 2 to that Act on the penalties with which an offence may be punishable on summary conviction.

(7) In this section—

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

“commencement date” means the date on which subsection (3) comes into force;

“information society services” has the meaning given in Article 2(a) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market (Directive on electronic commerce);

“programme service” has the same meaning as in the Communications Act 2003 (c. 21);

“video 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.

(8) In this section—

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

(b) references to showing a video recording are to showing a moving image reproduced from a video recording by any means.

Promotion of welfare

9 Duty of person responsible for animal to ensure welfare

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

(2) For the purposes of this Act, an animal’s needs shall 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 exhibit 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.

Improvement notices

(1) If an inspector is of the opinion that a person is failing to comply with section 9(1), he may serve on the person a notice which—

(a) states that he is of that opinion,

(b) specifies the respects in which he considers the person is failing to comply with that provision,

(c) specifies the steps he considers need to be taken in order to comply with the provision,

(d) specifies a period for the taking of those steps, and

(e) explains the effect of subsections (2) and (3).

(2) Where a notice under subsection (1) (“an improvement notice”) is served, no proceedings for an offence under section 9(1) may be instituted before the end of the period specified for the purposes of subsection (1)(d) (“the compliance period”) in respect of—

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

(b) any continuation of that non-compliance.

(3) 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 9(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.

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

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

(1) A person commits an offence if he sells an animal to a person whom he has reasonable cause to believe to be under the age of 16 years.

(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 commits an offence if—

(a) he enters into an arrangement with a person whom he has reasonable cause to believe to be under the age of 16 years, and

(b) the arrangement is one under which that person has the chance to win an animal as a prize.

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

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

(b) he 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 person does not commit an offence under subsection (3) if—

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

(b) he 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 person does not commit an offence under subsection (3) if he enters into the arrangement in a family context.

12 Regulations to promote welfare

(1) The appropriate national authority may by regulations make such provision as the authority thinks fit for the purpose of promoting the welfare of animals for which a person is responsible, or the progeny of such animals.

(2) Without prejudice to the generality of the power under subsection (1), regulations under that subsection may, in particular—

- (a) make provision imposing specific requirements for the purpose of securing that the needs of animals are met;
 - (b) make provision to facilitate or improve co-ordination in relation to the carrying out by different persons of functions relating to the welfare of animals;
 - (c) make provision for the establishment of one or more bodies with functions relating to advice about the welfare of animals.
- (3) Power to make regulations under subsection (1) includes power—
- (a) to provide that breach of a provision of the regulations is an offence;
 - (b) to apply a relevant post-conviction power in relation to conviction 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 make incidental, supplementary, consequential or transitional provision or savings.
- (4) Power to make regulations under subsection (1) does not include power to create an offence triable on indictment or punishable with—
- (a) imprisonment for a term exceeding 51 weeks, or
 - (b) a fine exceeding level 5 on the standard scale.
- (5) Regulations under subsection (1) may provide that a specified offence under the regulations is to be treated as a relevant offence for the purposes of section 23.
- (6) Before making regulations under subsection (1), the appropriate national authority shall consult such persons appearing to the authority to represent any interests concerned as the authority considers appropriate.
- (7) In this section, “specified” means specified in regulations under subsection (1).

Licensing and registration

13 Licensing or registration of activities involving animals

- (1) No person shall carry on an activity to which this subsection applies except under the authority of a licence for the purposes of this section.
- (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 made by the appropriate national authority.
- (3) No person shall carry on an activity to which this subsection applies unless registered for the purposes of this section.
- (4) Subsection (3) 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 made by the appropriate national authority.

(5) Regulations under subsection (2) or (4) may only be made for the purpose of promoting the welfare of animals for which a person is responsible, or the progeny of such animals.

(6) A person commits an offence if he contravenes subsection (1) or (3).

(7) The appropriate national authority may by regulations make provision about licences or registration for the purposes of this section.

(8) The appropriate national authority may by regulations repeal any of the following enactments (which impose licence or registration requirements in relation to activities involving animals)—

(a) section 1(1) of the Performing Animals (Regulation) Act 1925 (c. 38);

(b) section 1(1) of the Pet Animals Act 1951 (c. 35);

(c) section 1(1) of the Animal Boarding Establishments Act 1963 (c. 43);

(d) section 1(1) of the Riding Establishments Act 1964 (c. 70);

(e) section 1(1) of the Breeding of Dogs Act 1973 (c. 60).

(9) Before making regulations under this section, the appropriate national authority shall consult such persons appearing to the authority to represent any interests concerned as the authority considers appropriate.

(10) Schedule 1 (which makes provision about regulations under this section) has effect.

Codes of practice

14 Codes of practice

(1) The appropriate national authority may issue, and may from time to time revise, codes of practice for the purpose of providing practical guidance in respect of any provision made by or under this Act.

(2) The authority responsible for issuing a code of practice under subsection (1) shall publish the code, and any revision of it, in such manner as it considers appropriate.

(3) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render him liable to proceedings of any kind.

(4) In any proceedings against a person for an offence under this Act or an offence under regulations under section 12 or 13—

(a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability, and

(b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

15 Making and approval of codes of practice: England

(1) Where the Secretary of State proposes to issue (or revise) a code of practice under section 14, he shall—

(a) prepare a draft of the code (or revised code),

(b) consult about the draft such persons appearing to him to represent any interests concerned as he considers appropriate, and

(c) consider any representations made by them.

(2) If following consultation under subsection (1) the Secretary of State decides to proceed with a draft (either in its original form or with such modifications as he thinks fit), he shall lay a copy of it before Parliament.

(3) If, within the 40-day period, either House of Parliament resolves not to approve a draft laid under subsection (2), the Secretary of State shall take no further steps in relation to it.

(4) If, within the 40-day period, neither House resolves not to approve a draft laid under subsection (2), the Secretary of State shall issue (or revise) the code in the form of the draft.

(5) A code (or revised code) shall come into force on such day as the Secretary of State may by order appoint.

(6) Subsection (3) does not prevent a new draft of a code (or revised code) from being laid before Parliament.

(7) An order under subsection (5) may include transitional provision or savings.

(8) In this section, “the 40-day period”, in relation to a draft laid under subsection (2), means—

(a) if the draft is laid before the Houses on different days, the period of 40 days beginning with the later of the two days, and

(b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,

no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

16 Making of codes of practice: Wales

(1) Where the National Assembly for Wales proposes to issue (or revise) a code of practice under section 14, it shall—

(a) prepare a draft of the code (or revised code),

(b) consult about the draft such persons appearing to it to represent any interests concerned as it considers appropriate, and

(c) consider any representations made by them.

(2) The Assembly may issue (or revise) a code either in the form of the draft prepared under subsection (1)(a) or with such modification as it thinks fit.

(3) A code (or revised code) shall come into force in accordance with its provisions.

(4) A code (or revised code) may include transitional provision or savings.

17 Revocation of codes of practice

(1) The appropriate national authority may by order revoke a code of practice issued by it under section 14.

(2) An order under subsection (1) may include transitional provision or savings.

(3) Before making an order under subsection (1), the appropriate national authority shall consult such persons appearing to the authority to represent any interests concerned as the authority considers appropriate.

(4) Subsection (3) does not apply in relation to an order revoking a code of practice in connection with its replacement by a new one.

Animals in distress

18 Powers in relation to animals in distress

- (1) If an inspector or a constable reasonably believes that a protected animal is suffering, he may take, or arrange for the taking of, such steps as appear to him to be immediately necessary to alleviate the animal's suffering.
- (2) Subsection (1) does not authorise destruction of an animal.
- (3) If a veterinary surgeon certifies that the condition of a protected animal is such that it should in its own interests be destroyed, an inspector or a constable 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 constable may act under subsection (3) without the certificate of a veterinary surgeon if it appears to him—
 - (a) that the condition of the animal is such that there is no reasonable alternative to destroying it, and
 - (b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.
- (5) An inspector or a constable may take a protected animal into possession if a veterinary surgeon certifies—
 - (a) that it is suffering, or
 - (b) that it is likely to suffer if its circumstances do not change.
- (6) An inspector or a constable may act under subsection (5) without the certificate of a veterinary surgeon if it appears to him—
 - (a) that the animal is suffering or that it is likely to do so if its circumstances do not change, and
 - (b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.
- (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) Where an animal is taken into possession under subsection (5), an inspector or a constable 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 it was taken into possession, or
 - (ii) at such other place as he 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) A veterinary surgeon 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 exercises a power under this section otherwise than with the knowledge of a person who is responsible for the animal concerned, he 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 such a person.

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

(13) A magistrates' court may, on application by a person who incurs expenses in acting under this section, order that he be reimbursed by such person as it thinks fit.

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

19 Power of entry for section 18 purposes

(1) An inspector or a constable may enter premises for the purpose of searching for a protected animal and of exercising any power under section 18 in relation to it if he reasonably believes—

(a) that there is a protected animal on the premises, and

(b) that 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 constable may (if necessary) use reasonable force in exercising the power conferred by subsection (1), but only if it appears to him that entry is required before a warrant under subsection (4) can be obtained and executed.

(4) Subject to subsection (5), a justice of the peace may, on the application of an inspector or constable, issue a warrant authorising an inspector or a constable to enter premises for the purpose mentioned in subsection (1), if necessary using reasonable force.

(5) The power to issue a warrant under subsection (4) is exercisable only if the justice of the peace is satisfied—

(a) that there are reasonable grounds for believing that there is a protected animal on the premises and that the animal is suffering or is likely to suffer if its circumstances do not change, and

(b) that section 52 is satisfied in relation to the premises.

20 Orders in relation to animals taken under section 18(5)

(1) A magistrates' court may order any of the following in relation to an animal taken into possession under section 18(5)—

(a) that specified treatment be administered to the animal;

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

(c) that the animal be sold;

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

(e) that the animal be destroyed.

(2) If an animal is taken into possession under section 18(5) when it is pregnant, the power conferred by subsection (1) shall also be exercisable in relation to any offspring that results from the pregnancy.

(3) The power conferred by subsection (1) shall be 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 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.
- (5) Where 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 shall have regard, amongst other things, to the desirability of protecting the animal's value and avoiding increasing any expenses which a person may be ordered to reimburse.
- (7) A person commits an offence if he intentionally obstructs a person in the exercise of any power conferred by virtue of this section.
- (8) If the owner of the animal is subject to a liability by virtue of section 18(13) or subsection (5)(d) above, any amount to which he is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

21 Orders under section 20: appeals

- (1) Where a court makes an order under section 20(1), the owner of the animal to which the order relates may appeal against the order to the Crown Court.
- (2) Nothing may be done under an order under section 20(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) Where the effect of an order is suspended under subsection (2)—
 - (a) no directions given in connection with the order shall 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) Where a court decides on an application under section 20(3)(a) not to exercise the power conferred by subsection (1) of that section, the applicant may appeal against the decision to the Crown Court.

(6) Where a court makes an order under section 20(5)(d), the person against whom the order is made may appeal against the order to the Crown Court.

Enforcement powers

22 Seizure of animals involved in fighting offences

(1) A constable may seize an animal if it appears to him that it is one in relation to which an offence under section 8(1) or (2) has been committed.

(2) A constable may enter and search premises for the purpose of exercising the power under subsection (1) if he reasonably believes—

(a) that there is an animal on the premises, and

(b) that 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) Subject to subsection (5), a justice of the peace may, on the application of a constable, issue a warrant authorising a constable to enter and search premises, if necessary using reasonable force, for the purpose of exercising the power under subsection (1).

(5) The power to issue a warrant under subsection (4) is exercisable only if the justice of the peace is satisfied—

(a) that there are reasonable grounds for believing that there is on the premises an animal in relation to which an offence under section 8(1) or (2) has been committed, and

(b) that section 52 is satisfied in relation to the premises.

(6) In this section, references to an animal in relation to which an offence under section 8(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.

23 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 constable, issue a warrant authorising an inspector or a constable to enter premises, if necessary using reasonable force, in order to search for evidence of the commission of a relevant offence.

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

(a) that there are reasonable grounds for believing—

(i) that a relevant offence has been committed on the premises, or

(ii) that evidence of the commission of a relevant offence is to be found on the premises, and

(b) that section 52 is satisfied in relation to the premises.

(3) In this section, “relevant offence” means an offence under any of sections 4 to 9, 13(6) and 34(9).

24 Entry for purposes of arrest

In section 17(1)(c) of the Police and Criminal Evidence Act 1984 (c. 60) (power of constable to enter and search premises for purpose of arresting a person for offence under specified enactments), at end insert—

“(v) any of sections 4, 5, 6(1) and (2), 7 and 8(1) and (2) of the Animal Welfare Act 2006 (offences relating to the prevention of harm to animals);”.

25 Inspection of records required to be kept by holder of licence

(1) An inspector may require the holder of a licence to produce for inspection any records which he is required to keep by a condition of the licence.

(2) Where records which a person is so 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—

(a) in a visible and legible form, or

(b) in 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 in pursuance of a requirement under this section.

26 Inspection in connection with licences

(1) 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 Act which is relevant to the carrying on of an activity to which a licence relates.

(2) An inspector may, for the purpose of carrying out an inspection under subsection (1), enter—

(a) premises specified in a licence as premises on which the carrying on of an activity is authorised;

(b) premises on which he reasonably believes an activity to which a licence relates is being carried on.

(3) Subsection (2) 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.

27 Inspection in connection with registration

(1) An inspector may carry out an inspection in order to check compliance with provision made by or under this Act which is relevant to the carrying on of an activity to which a registration for the purposes of section 13 relates.

(2) An inspector may, for the purpose of carrying out an inspection under subsection (1), enter premises on which he reasonably believes a person registered for the purposes of section 13 is carrying on an activity to which the registration relates.

(3) Subsection (2) 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.

28 Inspection of farm premises

(1) An inspector may carry out an inspection in order to—

(a) check compliance with regulations under section 12 which relate to animals bred or kept for farming purposes;

(b) ascertain whether any offence under or by virtue of this Act has been or is being committed in relation to such animals.

(2) An inspector may enter premises which he reasonably believes to be premises on which animals are bred or kept for farming purposes in order to carry out an inspection under subsection (1).

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

(4) Subject to subsection (5), a justice of the peace may, on the application of an inspector, issue a warrant authorising an inspector to enter premises, if necessary using reasonable force, in order to carry out an inspection under subsection (1).

(5) The power to issue a warrant under subsection (4) is exercisable only if the justice of the peace is satisfied—

(a) that it is reasonable to carry out an inspection on the premises, and

(b) that section 52 is satisfied in relation to the premises.

29 Inspection relating to Community obligations

(1) An inspector may carry out an inspection in order to check compliance with regulations under section 12 which implement a Community obligation.

(2) An inspector may enter any premises in order to carry out an inspection under subsection (1).

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

Prosecutions

30 Power of local authority to prosecute offences

A local authority in England or Wales may prosecute proceedings for any offence under this Act.

31 Time limits for prosecutions

(1) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980 (c. 43), a magistrates' court may try an information relating to an offence under this Act if the information is laid—

(a) before the end of the period of three years beginning with the date of the commission of the offence, and

(b) before the end of the period of six months beginning with the date on which evidence which the prosecutor thinks is sufficient to justify the proceedings comes to his knowledge.

(2) For the purposes of subsection (1)(b)—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to his knowledge shall be conclusive evidence of that fact, and

(b) a certificate stating that matter and purporting to be so signed shall be treated as so signed unless the contrary is proved.

Post-conviction powers

32 Imprisonment or fine

(1) A person guilty of an offence under any of sections 4, 5, 6(1) and (2), 7 and 8 shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks, or

(b) a fine not exceeding £20,000,

or to both.

(2) A person guilty of an offence under section 9, 13(6) or 34(9) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks, or

(b) a fine not exceeding level 5 on the standard scale,

or to both.

(3) A person guilty of an offence under regulations under section 12 or 13 shall be liable on summary conviction to such penalty by way of imprisonment or fine as may be provided by regulations under that section.

(4) A person guilty of any other offence under this Act shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks, or

(b) a fine not exceeding level 4 on the standard scale,

or to both.

(5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in each of subsections (1)(a), (2)(a) and (4)(a) to 51 weeks is to be read as a reference to 6 months.

33 Deprivation

(1) If the person convicted of an offence under any of sections 4, 5, 6(1) and (2), 7, 8 and 9 is the owner of an animal in relation to which the offence was committed, the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way, make an order depriving him of ownership of the animal and for its disposal.

(2) Where the owner of an animal is convicted of an offence under section 34(9) because ownership of the animal is in breach of a disqualification under section 34(2), the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way, make an order depriving him of ownership of the animal and for its disposal.

(3) Where the animal in respect of which an order under subsection (1) or (2) 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.

(4) Where 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.

(5) Directions under subsection (4)(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 (4)(a).

(6) Where a court decides not to make an order under subsection (1) or (2) in relation to an offender, it shall—

- (a) give its reasons for the decision in open court, and
- (b) if it is a magistrates' court, cause them to be entered in the register of its proceedings.

(7) Subsection (6) does not apply where the court makes an order under section 34(1) in relation to the offender.

(8) 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 8, an animal which took part in an animal fight in relation to which the offence was committed.

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

34 Disqualification

(1) If a person is convicted of an offence to which this section applies, the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way, make an order disqualifying him under any one or more of subsections (2) to (4) for such period as it thinks fit.

(2) Disqualification under this subsection disqualifies a person—

- (a) from owning animals,
- (b) from keeping animals,
- (c) from participating in the keeping of animals, and
- (d) from being party to an arrangement under which he is entitled to control or influence the way in which animals are kept.

(3) Disqualification under this subsection disqualifies a person from dealing in animals.

(4) Disqualification under this subsection disqualifies a person—

- (a) from transporting animals, and
- (b) from arranging for the transport of animals.

(5) Disqualification under subsection (2), (3) or (4) may be imposed in relation to animals generally, or in relation to animals of one or more kinds.

(6) 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 43(1) for termination of the order.

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

- (a) suspend the operation of the order pending an appeal, or
- (b) where it appears to the court that the offender owns or keeps an animal to which the order applies, suspend the operation of the order, and of any order made under section 35 in connection with the disqualification, for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the animal.

(8) Where a court decides not to make an order under subsection (1) in relation to an offender, it shall—

- (a) give its reasons for the decision in open court, and
- (b) if it is a magistrates' court, cause them to be entered in the register of its proceedings.

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

(10) This section applies to an offence under any of sections 4, 5, 6(1) and (2), 7, 8, 9 and 13(6) and subsection (9).

35 Seizure of animals in connection with disqualification

(1) Where—

(a) a court makes an order under section 34(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,

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

(2) Where a person is convicted of an offence under section 34(9) because of owning or keeping an animal in breach of disqualification under section 34(2), the court by or before which he is convicted may order that all animals he 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, shall have effect as an order for the disposal of the animal.

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

(5) A court may not make an order for disposal under subsection (4) 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.

(6) Where a court makes an order under subsection (4) for the disposal of an animal, the owner may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(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 a magistrates' court, to a magistrates' court for the same local justice area as that court.

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

36 Section 35: supplementary

(1) The court by which an order under section 35 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 determining how to exercise its powers under section 35 and this section, the court shall 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 determining how to exercise a power delegated under subsection (2)(b), a person shall 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 35 is subject to a liability by virtue of subsection (1)(e), any amount to which he is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

37 Destruction in the interests of the animal

(1) The court by or before which a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7, 8(1) and (2) and 9 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 a veterinary surgeon, 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—

(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) Where 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) Where a court makes an order under subsection (1), each of the offender and, if different, the owner of the animal may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(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 8(1) or (2), an animal which took part in an animal fight in relation to which the offence was committed.

38 Destruction of animals involved in fighting offences

(1) The court by or before which a person is convicted of an offence under section 8(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) Where 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) Where 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—

(a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(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.

39 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 8(1) or (2) may order the offender or another person to reimburse any expenses incurred by the police 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.

40 Forfeiture of equipment used in offences

(1) Where a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7 and 8, the court by or before which he 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 such manner as may be specified in the order.

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

- (a) in the case of a conviction for an offence under section 4, to anything designed or adapted for causing suffering to an animal;
 - (b) in the case of a conviction for an offence under section 5, to anything designed or adapted for carrying out a prohibited procedure on an animal;
 - (c) in the case of a conviction for an offence under section 6(1) or (2), to anything designed or adapted for removing the whole or any part of a dog's tail;
 - (d) in the case of a conviction for an offence under section 7, to anything designed or adapted for administering any drug or substance to an animal;
 - (e) in the case of a conviction for an offence under section 8(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 8(3), to a video recording of an animal fight, including anything on or in which the recording is kept.
- (3) The court shall 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 he 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.

41 Orders under section 33, 35, 37, 38 or 40: pending appeals

- (1) Nothing may be done under an order under section 33, 35, 37 or 38 with respect to an animal or an order under section 40 unless—
- (a) the 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) Subsection (1) does not apply to an order under section 37(1) if the order is the subject of a direction under subsection (5) of that section.
- (3) Where the effect of an order is suspended under subsection (1)—
- (a) no requirement imposed or directions given in connection with the order shall 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) 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) shall be recoverable summarily as a civil debt.

(6) Where the effect of an order under section 33 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) Failure to comply with subsection (6) is an offence.

42 Orders with respect to licences

(1) If a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9, 11 and 13(6), the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way—

(a) make an order cancelling any licence held by him;

(b) make an order disqualifying him, for such period as it thinks fit, from holding a licence.

(2) Disqualification under subsection (1)(b) may be imposed in relation to licences generally or in relation to licences of one or more kinds.

(3) The court by which an order under subsection (1)(b) is made may specify a period during which the offender may not make an application under section 43(1) for termination of the order.

(4) The court by which an order under subsection (1) is made may suspend the operation of the order pending an appeal.

43 Termination of disqualification under section 34 or 42

(1) A person who is disqualified by virtue of an order under section 34 or 42 may apply to the appropriate court for the termination of the order.

(2) No application under subsection (1) may be made—

(a) before the end of the period of one year beginning with the date on which the order is made,

(b) where a previous application under that subsection has been made in relation to the same order, before the end of the period of one year beginning with the date on which the previous application was determined, or

(c) before the end of any period specified under section 34(6), 42(3) or subsection (5) below 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 determining an application under subsection (1), the court shall have regard to the character of the applicant, his conduct since the imposition of the disqualification and any other circumstances of the case.

(5) Where 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 34 or 42, or

(b) in the case of an order made by a magistrates' court, to a magistrates' court acting for the same local justice area as that court.

44 Orders made on conviction for reimbursement of expenses

Where an order is made under section 33(4)(e), 36(1)(e), 37(3)(e), 38(3)(e) or 39(1), the expenses that are required by the order to be reimbursed shall not be regarded for the purposes of the Magistrates' Courts Act 1980 (c. 43) as a sum adjudged to be paid by a summary conviction, but shall be recoverable summarily as a civil debt.

45 Orders for reimbursement of expenses: right of appeal for non-offenders

(1) Where a court makes an order to which this section applies, the person against whom the order is made may—

(a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;

(b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

(2) This section applies to—

(a) an order under section 36(1)(e) against a person other than the person subject to disqualification, and

(b) an order under section 37(3)(e), 38(3)(e) or 39(1) against a person other than the offender.

Scotland

46 Effect in Scotland of disqualification under section 34

(1) Disqualification by virtue of an order under section 34(1) has effect in relation to Scotland.

(2) A person who breaches a disqualification under section 34 commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to—

(a) imprisonment for a term not exceeding 6 months, or

(b) a fine not exceeding level 5 on the standard scale,

or to both.

47 Deprivation orders in connection with offence under section 46(2)

(1) Where a person is convicted of an offence under section 46(2) because of owning or keeping an animal in breach of disqualification under section 34(2), the convicting court may make an order (in this section and sections 49 and 50 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, it must state its reasons.
- (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 the 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,
 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 provisions 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 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.
- (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.

48 Seizure orders where disqualification breached: Scotland

- (1) Where the court is satisfied that a person who is subject to disqualification under section 34 owns or keeps an animal in breach of the disqualification, the court may make an order (in this section and sections 49 and 50 referred to as a “seizure order”) in respect of all animals which the person owns or keeps in breach of the disqualification.
- (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 46(2).

(3) 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.

(4) 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.

(5) Provision under subsection (4)(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.

(6) 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.

(7) 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.

(8) 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.

(9) When 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.

(10) Subsections (4), (5)(a) and (8) apply in relation to an interim order as they apply in relation to a seizure order.

(11) In subsection (2)(a), an “inspector” is a person—

(a) appointed as inspector by the Scottish Ministers, or authorised by them, for the purposes of this section, or

(b) appointed as inspector by a local authority for the purposes of this section.

(12) In subsection (11)(b), a “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

49 Appeals against deprivation orders and seizure orders

(1) Any deprivation order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995 (c. 46), to be treated as a sentence.

(2) Where a deprivation order is made, any person (apart from a person who may appeal against the order by virtue of subsection (1)) who has an interest in any animal to which the order applies may appeal to the High Court of Justiciary against the order by the same procedure as applies under subsection (1) in relation to a deprivation order.

(3) 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.

(4) 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.

(5) Where the operation of a deprivation order or seizure order is suspended under subsection (4), or such an order is not executable because decree has not been extracted, the court which made the order may make an order under this subsection (an “interim order”) containing such provisions 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.

(6) An interim order may, in particular—

(a) make 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) make 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) for reimbursement of any expenses reasonably incurred in carrying out the order.

(7) 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.

50 Deprivation orders, seizure orders and interim orders: offences

(1) Where the operation of a deprivation order is suspended under section 49(4), a person commits an offence if the person sells or otherwise parts with an animal to which the order applies.

(2) A person commits an offence if the person intentionally obstructs a person in the carrying out of—

- (a) a deprivation order,
- (b) a seizure order,
- (c) an interim order under section 48(9) or 49(5).

(3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to—

- (a) imprisonment for a term not exceeding 6 months, or
 - (b) a fine not exceeding level 5 on the standard scale,
- or to both.

General

51 Inspectors

(1) In this Act, “inspector”, in the context of any provision, means a person appointed to be an inspector for the purposes of that provision by—

- (a) the appropriate national authority, or
- (b) a local authority.

(2) In appointing a person to be an inspector for purposes of this Act, a local authority shall have regard to guidance issued by the appropriate national authority.

(3) The appropriate national authority may, in connection with guidance under subsection (2), draw up a list of persons whom the authority considers suitable for appointment by a local authority to be an inspector for purposes of this Act.

(4) A person may be included in a list under subsection (3) as suitable for appointment as an inspector for all the purposes of this Act or only for such one or more of those purposes as may be specified in the list.

(5) An inspector shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) Relief from liability of an inspector under subsection (5) shall not affect any liability of any other person in respect of the inspector’s act.

52 Conditions for grant of warrant

(1) This section is satisfied in relation to premises if any of the following four 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 each of the following applies to the occupier of the premises—

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

(b) he has failed to allow entry to the premises on being requested to do so by an inspector or a constable;

(c) he has 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.

53 Powers of entry, inspection and search: supplementary

Schedule 2 (which makes supplementary provision in relation to powers of entry, inspection and search) has effect.

54 Power to stop and detain vehicles

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

(a) by section 19(1), or

(b) by a warrant under section 19(4) or 23(1).

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

(a) by section 22(2), or

(b) by a warrant under section 22(4).

(3) If accompanied by a constable 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—

(a) by section 26(2), 27(2), 28(2) or 29(2), or

(b) by a warrant under section 28(4).

(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 Act) either at the place where the vehicle was first detained or nearby.

55 Power to detain vessels, aircraft and hovercraft

(1) Where an inspector appointed by the appropriate national authority certifies in writing that he is satisfied that an offence under or by virtue of this Act is being or has been committed on board a vessel in port, the vessel may be detained.

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

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

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

(3) Section 284 of the Merchant Shipping Act 1995 (c. 21) (which provides for enforcement of the detention of a ship under that Act by specified officers) shall apply as if the power of detention under subsection (1) were conferred by that Act.

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

(5) A vessel may be detained under subsection (1) until the appropriate national authority otherwise directs.

(6) The appropriate national authority may by regulations—

(a) apply this section to aircraft or hovercraft, with such modifications as the authority thinks fit, or

(b) make such other provision for the detention of aircraft or hovercraft in relation to offences under or by virtue of this Act as the authority thinks fit.

56 Obtaining of documents in connection with carrying out orders etc.

(1) Where—

(a) an order under section 20(1), 33(1) or (2), 35(1) or (2) or 37(1) has effect, and

(b) the owner of an animal to which the order relates has in his possession, or under his control, documents which are relevant to the carrying out of the order or any directions given in connection with it,

the owner shall, 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 before the end of the period of 10 days beginning with the date on which he is notified of the requirement.

(2) Where—

(a) directions under section 41(3)(b) have effect, and

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

the owner shall, if so required by a person authorised to carry out the directions, deliver the documents to that person as soon as practicable and in any event before the end of the period of 10 days beginning with the date on which he is notified of the requirement.

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

57 Offences by bodies corporate

(1) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he (as well as the body corporate) commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

58 Scientific research

(1) Nothing in this Act applies to anything lawfully done under the Animals (Scientific Procedures) Act 1986 (c. 14).

(2) No power of entry, inspection or search conferred by or under this Act, except for any such power conferred by section 28, may be exercised in relation to a place which is—

(a) designated under section 6 of the Animals (Scientific Procedures) Act 1986 as a scientific procedure establishment, or

(b) designated under section 7 of that Act as a breeding establishment or as a supplying establishment.

(3) Section 9 does not apply in relation to an animal which—

(a) is being kept, at a place designated under section 6 of the Animals (Scientific Procedures) Act 1986 as a scientific procedure establishment, for use in regulated procedures,

(b) is being kept, at a place designated under section 7 of that Act as a breeding establishment, for use for breeding animals for use in regulated procedures,

(c) is being kept at such a place, having been bred there for use in regulated procedures, or

(d) is being kept, at a place designated under section 7 of that Act as a supplying establishment, for the purpose of being supplied for use elsewhere in regulated procedures.

(4) In subsection (3), “regulated procedure” has the same meaning as in the Animals (Scientific Procedures) Act 1986.

59 Fishing

Nothing in this Act applies in relation to anything which occurs in the normal course of fishing.

60 Crown application

(1) Subject to the provisions of this section, this Act and regulations and orders made under it shall bind the Crown.

(2) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding subsection (2), the provisions of this Act and of regulations and orders made under it shall apply to persons in the service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him appropriate in the interests of national security that powers of entry conferred by or under this Act should not be exercisable in relation to Crown premises specified in the certificate, those powers shall not be exercisable in relation to those premises.

(5) In subsection (4), “Crown premises” means premises held, or used, by or on behalf of the Crown.

(6) No power of entry conferred by or under this Act may be exercised in relation to land belonging to Her Majesty in right of Her private estates.

(7) In subsection (6), the reference to Her Majesty’s private estates shall be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

61 Orders and regulations

(1) Any power of the Secretary of State, the National Assembly for Wales or the Scottish Ministers to make orders or regulations under this Act, except the power under section 17(1) of the National Assembly for Wales, is exercisable by statutory instrument.

(2) No regulations under section 1(3), 5(4), 6, 12 or 13 shall be made by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(3) No order under section 17(1) shall be made by the Secretary of State unless a draft of the instrument containing the order has been laid before Parliament.

(4) Subsection (3) does not apply in relation to an order revoking a code of practice in connection with its replacement by a new one.

(5) A statutory instrument containing regulations under section 55(6) made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

62 General interpretation

(1) In this Act—

“animal” has the meaning given by section 1(1);

“appropriate national authority” means—

(a)

in relation to England, the Secretary of State;

(b)

in relation to Wales, the National Assembly for Wales;

“enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));

“licence” means a licence for the purposes of section 13;

“local authority” means—

(a)

in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b)

in relation to Wales, a county council or a county borough council;

“premises” includes any place and, in particular, includes—

(a)

any vehicle, vessel, aircraft or hovercraft;

(b)

any tent or movable structure;

“protected animal” has the meaning given by section 2;

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

“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).

(2) In this Act, 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” shall be construed accordingly.

(3) In this Act, 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.

(4) In this Act, references to responsibility, in relation to an animal, are to be read in accordance with section 3.

(5) In this Act, references to the needs of an animal are to be read in accordance with section 9(2).

(6) In this Act, references to a “relevant post-conviction power” are to a power conferred by—

(a) section 33, 34, 37 or 42 of this Act,

(b) section 4(2) of the Performing Animals (Regulation) Act 1925 (c. 38) (power to remove name from register under Act and disqualify from registration),

(c) section 5(3) of the Pet Animals Act 1951 (c. 35) (power to cancel licence under Act and disqualify from carrying on licensable activity),

(d) section 3(3) of the Animal Boarding Establishments Act 1963 (c. 43) (provision corresponding to that mentioned in paragraph (c) above),

(e) section 4(3) of the Riding Establishments Act 1964 (c. 70) (further corresponding provision),

(f) section 3(4) of the Guard Dogs Act 1975 (c. 50) (power to cancel licence under Act),

(g) section 6(2) of the Dangerous Wild Animals Act 1976 (c. 38) (power to cancel licence under Act and disqualify from carrying on licensable activity), or

(h) section 4(4) of the Zoo Licensing Act 1981 (c. 37) (power to refuse licence under Act for conviction for an offence).

63 Financial provisions

(1) There shall be paid out of money provided by Parliament—

(a) any expenditure under this Act of the Secretary of State, and

(b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) There shall be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other enactment.

64 Minor and consequential amendments

Schedule 3 (minor and consequential amendments) has effect.

65 Repeals

The enactments specified in Schedule 4 are hereby repealed to the extent specified.

66 Transition

(1) Each of the Secretary of State, the National Assembly for Wales and the Scottish Ministers may by order make such transitional provision or savings as are considered necessary or expedient in connection with the coming into force of any provision of this Act.

(2) Power under subsection (1) includes power to make different provision for different cases.

(3) Section 34(9) shall apply in relation to a disqualification imposed by an order under section 1 of the Protection of Animals (Amendment) Act 1954 (c. 40) (power to disqualify persons convicted of cruelty to animals) as it applies in relation to a disqualification imposed by an order under section 34(1).

(4) In relation to a person convicted of an offence under section 34(9) by virtue of breaching a disqualification imposed by an order under section 1 of the Protection of Animals (Amendment) Act 1954, section 35(2) shall have effect with the substitution for the words from “owning” to “keeps” of “having custody of an animal in breach of disqualification under section 1 of the Protection of Animals (Amendment) Act 1954, the court by or before which he is convicted may order that all animals of which he has custody”.

(5) Section 43 shall apply in relation to a person who is disqualified by virtue of an order under section 1 of the Protection of Animals (Amendment) Act 1954 as it applies in relation to a person who is disqualified by virtue of an order under section 34 or 42.

(6) In its application by virtue of subsection (5), section 43(2)(c) shall have effect with the omission of the words “section 34(6), 42(3) or”.

67 Extent

(1) Subject to the following provisions, this Act extends to England and Wales only.

(2) Sections 46 to 50 and 68(2) extend to Scotland only.

(3) The following provisions also extend to Scotland—

(a) sections 57 and 60(1) and (4) to (7), so far as relating to sections 46 to 50,

(b) section 61(1), so far as relating to sections 66 and 68,

(c) section 66(1) and (2), this section and sections 68(1), (3) and (4) and 69,

(d) paragraphs 2, 12 and 14 of Schedule 3, and section 64 so far as relating to them, and

(e) such of the repeals in Schedule 4 as are mentioned in subsection (4), and section 65 so far as relating to them.

(4) The repeals referred to are—

(a) in section 1(3) of the Protection of Animals Act 1934 (c. 21), the provision about the meaning of “horse” and “bull”;

(b) in the Protection of Animals (Amendment) Act 1954 (c. 40)—

(i) in section 1(1), the words “the Protection of Animals Act 1911 or”, and

(ii) in section 4(1)(a), the words from “, in relation to England” to “in relation to Scotland,”;

(c) in the Protection of Animals (Anaesthetics) Act 1954 (c. 46), section 2(2) and Part 1 of Schedule 2;

(d) in the Abandonment of Animals Act 1960 (c. 43)—

(i) section 2(a), and

(ii) in section 3(2), the words “the Protection of Animals Acts 1911 to 1960, or” and the words “, as the case may be”;

(e) in section 4(2) of the Animals (Cruel Poisons) Act 1962 (c. 26), the words from “and the Protection of Animals Acts 1911” to “and this Act”;

(f) in the Protection of Animals (Anaesthetics) Act 1964 (c. 39), section 2(1)(a);

(g) in the Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)—

(i) section 7(3), and

(ii) in section 8(5), the words “the Protection of Animals Acts 1911 to 1964 or”.

(5) The following provisions also extend to Northern Ireland—

- (a) section 61(1), so far as relating to sections 66 and 68,
- (b) section 66(1) and (2), this section and sections 68(1), (3) and (4) and 69, and
- (c) paragraphs 12 and 14 of Schedule 3, and section 64 so far as relating to them.

68 Commencement

(1) This section and sections 61, 67 and 69 shall come into force on the day on which this Act is passed.

(2) Sections 46 to 50 shall come into force on such day as the Scottish Ministers may by order appoint.

(3) The remaining provisions of this Act—

(a) so far as relating to England, Scotland or Northern Ireland, shall come into force on such day as the Secretary of State may by order appoint, and

(b) so far as relating to Wales, shall come into force on such day as the National Assembly for Wales may by order appoint.

(4) Power under subsection (3) includes power to appoint different days for different purposes.

69 Short title

This Act may be cited as the Animal Welfare Act 2006.

SCHEDULES

Section 13

SCHEDULE 1 REGULATIONS UNDER SECTION 13

PART 1 LICENCES FOR THE PURPOSES OF THE SECTION

Introductory

1 This Part has effect in relation to regulations under section 13(7) about licences for the purposes of section 13.

Licensing authority

2 Regulations shall provide for the licensing authority to be—

- (a) a local authority, or
- (b) the appropriate national authority.

3 Where the licensing authority is a local authority, regulations may require the licensing authority to have regard in carrying out its functions under the regulations to such guidance as may be issued by the appropriate national authority.

Period of licence

4 Regulations may, in particular—

- (a) make provision about the period for which licences are to be granted;
- (b) make provision, in connection with the death of the holder of a licence, for the continuation in force of the licence for such period and subject to such conditions as the regulations may provide.

5 Regulations may not provide for licences to be granted for a period of more than 3 years.

Exercise of licensing functions

6 Regulations may, in particular—

(a) require a licensing authority not to grant a licence unless satisfied as to a matter specified in the regulations;

(b) require a licensing authority to have regard, in deciding whether to grant a licence, to a matter specified in the regulations.

7 Regulations shall make provision requiring a licensing authority not to grant a licence authorising the carrying on of an activity on specific premises unless the premises have been inspected as the regulations may provide.

Grant of licence subject to conditions

8 (1) Regulations may, in particular, make provision for the grant of a licence subject to conditions.

(2) Provision of the kind mentioned in sub-paragraph (1) may—

(a) enable a licensing authority to attach conditions to a licence;

(b) require a licensing authority to attach to a licence conditions specified in the regulations.

Breach of licence condition

9 (1) Regulations may provide for breach of a condition of a licence to be an offence.

(2) Regulations may not provide for an offence of breach of condition of a licence to be triable on indictment or punishable with—

(a) imprisonment for a term exceeding 51 weeks, or

(b) a fine exceeding level 5 on the standard scale.

(3) Regulations may provide that an offence of breach of condition of a licence is to be treated as a relevant offence for the purposes of section 23.

(4) Regulations may apply a relevant post-conviction power in relation to conviction for an offence of breach of condition of a licence.

Appeals

10 Regulations may, in particular, make provision for appeals in relation to decisions of a licensing authority under the regulations.

Fees

11 Regulations may include provision for fees or other charges in relation to the carrying out of functions of the licensing authority under the regulations.

PART 2 REGISTRATION FOR THE PURPOSES OF THE SECTION

Introductory

12 This Part has effect in relation to regulations under section 13(7) about registration for the purposes of section 13.

Registering authority

13 Regulations shall provide for the registering authority to be—

(a) a local authority, or

(b) the appropriate national authority.

14 Where the registering authority is a local authority, regulations may require the registering authority to have regard in carrying out its functions under the regulations to such guidance as may be issued by the appropriate national authority.

Exercise of registration functions

15 Regulations may, in particular—

(a) require a registering authority not to register an applicant for registration unless satisfied as to a matter specified in the regulations;

(b) require a registering authority to have regard, in deciding whether to register an applicant for registration, to a matter specified in the regulations.

Appeals

16 Regulations may, in particular, make provision for appeals in relation to decisions of a registering authority under the regulations.

Fees

17 Regulations may include provision for fees or other charges in relation to the carrying out of functions of the registering authority under the regulations.

PART 3 SUPPLEMENTARY

18 Power to make regulations under section 13(7) includes power—

(a) to make provision for purposes other than the purpose of promoting the welfare of animals for which a person is responsible;

(b) to make different provision for different cases or areas;

(c) to provide for exemptions from a provision of the regulations, either subject to specified conditions or without conditions.

19 (1) Power to make regulations under section 13 includes power to make incidental, supplementary, consequential or transitional provision or savings.

(2) In the case of provision consequential on the repeal of an enactment specified in section 13(8), the power under sub-paragraph (1) includes power—

(a) to amend or repeal an enactment;

(b) to make provision for the purpose of continuing the effect of an enactment repealed under paragraph (a).

(3) The power under sub-paragraph (2)(b) includes power to provide that breach of a provision of the regulations is an offence, but does not include power to create an offence triable on indictment or punishable with—

(a) imprisonment for a term exceeding 51 weeks, or

(b) a fine exceeding level 5 on the standard scale.

SCHEDULE 2 POWERS OF ENTRY, INSPECTION AND SEARCH: SUPPLEMENTARY

Safeguards etc. in connection with powers of entry conferred by warrant

1 (1) Sections 15 and 16 of the Police and Criminal Evidence Act 1984 (c. 60) shall have effect in relation to the issue of a warrant under section 19(4) or 23(1) to an inspector as they have effect in relation to the issue of a warrant under that provision to a constable.

(2) In their application in relation to the issue of a warrant under section 19(4) or 23(1), sections 15 and 16 of that Act shall have effect with the following modifications.

(3) In section 15—

(a) in subsection (2), omit the words from the end of paragraph (a)(ii) to the end of paragraph (b);

(b) omit subsections (2A) and (5A);

- (c) in subsection (5), omit the words from “unless” to the end;
- (d) in subsection (6)(a), omit the words from the end of sub-paragraph (iii) to the end of sub-paragraph (iv);
- (e) in subsection (7), omit the words from “(see” to the end.
- (4) In section 16—
 - (a) omit subsections (3A) and (3B);
 - (b) in subsection (9), omit the words after paragraph (b).

2 (1) This paragraph and paragraph 3 have effect in relation to the issue to inspectors of warrants under section 28(4); and an entry on premises under such a warrant is unlawful unless it complies with this paragraph and paragraph 3.

- (2) Where an inspector applies for a warrant, he shall—
 - (a) state the ground on which he makes the application,
 - (b) state the enactment under which the warrant would be issued, and
 - (c) specify the premises which it is desired to enter.
- (3) An application for a warrant shall be made without notice and supported by an information in writing.
- (4) The inspector shall answer on oath any question that the justice of the peace hearing the application asks him.
- (5) A warrant shall authorise an entry on one occasion only.
- (6) A warrant shall specify—
 - (a) the name of the person who applies for it,
 - (b) the date on which it is issued, and
 - (c) the enactment under which it is issued.
- (7) Two copies shall be made of a warrant.
- (8) The copies shall be clearly certified as copies.

3 (1) A warrant may be executed by any inspector.

- (2) A warrant may authorise persons to accompany any inspector who is executing it.
- (3) A person authorised under sub-paragraph (2) has the same powers as the inspector whom he accompanies in respect of the execution of the warrant, but may exercise those powers only in the company, and under the supervision, of an inspector.
- (4) Execution of a warrant must be within three months from the date of its issue.
- (5) Execution of a warrant must be at a reasonable hour unless it appears to the inspector executing it that the purpose of entry may be frustrated on an entry at a reasonable hour.
- (6) Where the occupier of premises which are to be entered under a warrant is present at the time when an inspector seeks to execute it, the inspector shall—
 - (a) identify himself to the occupier and shall produce to him documentary evidence that he is an inspector,
 - (b) produce the warrant to him, and

(c) supply him with a copy of it.

(7) Where—

(a) the occupier of premises which are to be entered under a warrant is not present when an inspector seeks to execute it, but

(b) some other person who appears to the inspector to be in charge of the premises is present, sub-paragraph (6) shall have effect as if any reference to the occupier were a reference to that other person.

(8) If there is no person present who appears to the inspector to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.

(9) A warrant which—

(a) has been executed, or

(b) has not been executed within the time authorised for its execution,

shall be returned to the designated officer for the local justice area in which the justice of the peace who issued the warrant was acting when he issued it.

(10) A warrant which is returned under sub-paragraph (9) shall be retained by the officer to whom it is returned for 12 months from its return.

(11) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he shall be allowed to do so.

Duty to produce evidence of identity

4 (1) This paragraph applies to a power of entry conferred by section 19(1), 22(2), 26(2), 27(2), 28(2) or 29(2).

(2) A person may only exercise a power of entry to which this paragraph applies if on request—

(a) he produces evidence of his identity and of his entitlement to exercise the power;

(b) he outlines the purpose for which the power is exercised.

Power to take persons onto premises

5 In exercising a power to which paragraph 4 applies, a person may take with him onto the premises such persons as he thinks appropriate.

Duty to exercise power of entry at reasonable time

6 Entry under a power to which paragraph 4 applies shall be at a reasonable time, unless it appears to the person exercising the power that the purpose for which he is exercising the power would be frustrated on entry at a reasonable time.

Power to require assistance

7 (1) This paragraph applies to a power of entry conferred by—

(a) section 19(1), 22(2), 26(2), 27(2), 28(2) or 29(2), or

(b) a warrant under section 19(4), 22(4), 23(1) or 28(4).

(2) Where a person enters premises in the exercise of a power of entry to which this paragraph applies, he may require any qualifying person on the premises to give him such assistance as he may reasonably require for the purpose for which entry is made.

(3) The reference in sub-paragraph (2) to a qualifying person is to—

- (a) the occupier of the premises;
 - (b) any person who appears to the person exercising the power to be responsible for animals on the premises;
 - (c) any person who appears to the person exercising the power to be under the direction or control of a person mentioned in paragraph (a) or (b).
- (4) In the case of a power under section 26(2), the reference in sub-paragraph (2) to a qualifying person also includes the holder of a licence—
- (a) specifying the premises as premises on which the carrying on of an activity is authorised, or
 - (b) relating to an activity which is being carried on on the premises.

Power to take equipment onto premises

8 In exercising a power to which paragraph 7 applies, a person may take with him such equipment and materials as he thinks appropriate.

Duty to leave premises secured

9 If, in the exercise of a power of entry to which paragraph 7 applies, a person enters premises which are unoccupied, he shall leave them as effectively secured against entry as he found them.

Functions in connection with inspection and search

10 (1) This paragraph applies to—

- (a) a power of inspection conferred by section 26(1), 27(1), 28(1) or 29(1), and
 - (b) a power of search conferred by a warrant under section 23(1).
- (2) A person exercising a power to which this paragraph applies may—
- (a) inspect an animal found on the premises;
 - (b) inspect any other thing found on the premises, including a document or record (in whatever form it is held);
 - (c) carry out a measurement or test (including a measurement or test of an animal found on the premises);
 - (d) take a sample (including a sample from an animal found on the premises or from any substance on the premises which appears to be intended for use as food for such an animal);
 - (e) mark an animal found on the premises for identification purposes;
 - (f) remove a carcass found on the premises for the purpose of carrying out a post-mortem examination on it;
 - (g) take copies of a document or record found on the premises (in whatever form it is held);
 - (h) require information stored in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form;
 - (i) take a photograph of anything on the premises;
 - (j) seize and detain or remove anything which the person exercising the power reasonably believes to be evidence of any non-compliance, or of the commission of any offence, relevant to the purpose for which the inspection or search is made.

(3) A person taken onto premises under paragraph 5 may exercise any power conferred by sub-paragraph (2) if he is in the company, and under the supervision, of a person exercising a power to which this paragraph applies.

11 A person who takes a sample from an animal pursuant to paragraph 10(2)(d) shall give a part of the sample, or a similar sample, to any person appearing to be responsible for the animal, if, before the sample is taken, he is requested to do so by that person.

12 (1) Paragraph 10(2)(j) does not include power to seize an item which the person exercising the power has reasonable grounds for believing to be subject to legal privilege (within the meaning of section 10 of the Police and Criminal Evidence Act 1984 (c. 60)).

(2) A person who seizes anything in exercise of the power under paragraph 10(2)(j) shall on request provide a record of the thing seized to a person showing himself—

(a) to be the occupier of premises on which it was seized, or

(b) to have had possession or control of it immediately before its seizure.

(3) Subject to sub-paragraph (4), anything which has been seized in the exercise of a power under paragraph 10(2)(j) may be retained so long as is necessary in all the circumstances and in particular—

(a) for use as evidence at a trial for a relevant offence, or

(b) for forensic examination or for investigation in connection with a relevant offence.

(4) Nothing may be retained for either of the purposes mentioned in sub-paragraph (3) if a photograph or a copy would be sufficient for that purpose.

13 As soon as reasonably practicable after having exercised a power to which paragraph 10 applies, the person who exercised the power shall—

(a) prepare a written report of the inspection or search, and

(b) if requested to do so by the occupier of the premises, give him a copy of the report.

14 (1) A person exercising a power of search conferred by a warrant under section 23(1) may (if necessary) use reasonable force in the exercise of powers under paragraph 10 in connection with the execution of the warrant.

(2) A person carrying out an inspection under section 28(1) on premises which he is authorised to enter by a warrant under section 28(4) may (if necessary) use reasonable force in the exercise of powers under paragraph 10 in connection with the inspection.

Functions in connection with entry under section 19

15 (1) Where a person enters premises in exercise of a power of entry conferred by section 19(1), or by a warrant under section 19(4), he may—

(a) inspect an animal found on the premises;

(b) remove a carcass found on the premises for the purposes of carrying out a post-mortem examination on it;

(c) remove for those purposes the carcass of an animal destroyed on the premises in exercise of power conferred by section 18(3) or (4);

(d) take a photograph of anything on the premises.

(2) Where a person exercising a power of entry under section 19(1) takes another person with him under paragraph 5, the other person may exercise any power conferred by sub-paragraph (1) if he is in the company, and under the supervision, of the person exercising the power of entry.

Offences

16 A person commits an offence if he—

- (a) intentionally obstructs a person in the lawful exercise of a power to which paragraph 7 or 10 applies;
- (b) intentionally obstructs a person in the lawful exercise of a power conferred by this Schedule;
- (c) fails without reasonable excuse to give any assistance which he is required to give under paragraph 7.

SCHEDULE 3 MINOR AND CONSEQUENTIAL AMENDMENTS

Performing Animals (Regulation) Act 1925 (c. 38)

1 In section 4 of the Performing Animals (Regulation) Act 1925 (offences and legal proceedings), in subsection (2), after “enactment,” insert “or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006”.

Cinematograph Films (Animals) Act 1937 (c. 59)

2 In section 1 of the Cinematograph Films (Animals) Act 1937 (prohibition of films involving cruelty to animals), in subsection (4), for paragraph (b) substitute—

“(b) in relation to England and Wales, the expression “animal” means a “protected animal” within the meaning of the Animal Welfare Act 2006.”

Pet Animals Act 1951 (c. 35)

3 (1) Section 2 of the Pet Animals Act 1951 (pets not to be sold in streets etc.) ceases to have effect.

(2) In section 5 of that Act (offences and disqualifications), in subsection (3), after “1912,” insert “or of any offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006,”.

Protection of Animals (Amendment) Act 1954 (c. 40)

4 (1) In the Protection of Animals (Amendment) Act 1954, after section 2 insert—

“2A Breach of disqualification order

(1) If a person has custody of any animal in contravention of an order made under this Act by a court in Scotland, he shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 51 weeks, or
- (b) a fine not exceeding level 3 on the standard scale.

or to both.

(2) This section applies to orders made before, as well as to orders made after, the coming into force of this section.”

(2) In relation to an offence under the inserted section 2A committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (1)(a) of the section to 51 weeks is to be read as a reference to 6 months.

Animal Boarding Establishments Act 1963 (c. 43)

5 (1) In section 1 of the Animal Boarding Establishments Act 1963 (licensing of boarding establishments for animals), in subsection (2), at the end of paragraph (e) insert “or—

(f) under section 34(2), (3) or (4) of the Animal Welfare Act 2006.”.

(2) In section 3 of that Act (offences and disqualification), in subsection (3), after “1951,” insert “or of any offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006,”.

Riding Establishments Act 1964 (c. 70)

6 (1) In section 1 of the Riding Establishments Act 1964 (licensing of riding establishments), in subsection (2), at the end of paragraph (f) insert “or—

(g) under section 34(2), (3) or (4) of the Animal Welfare Act 2006”.

(2) In section 4 of that Act (penalties and disqualification), in subsection (3), after “1963,” insert “or of any offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006,”.

Breeding of Dogs Act 1973 (c. 60)

7 In section 1 of the Breeding of Dogs Act 1973 (licensing of breeding establishments for dogs), in subsection (2), at the end of paragraph (f) insert “or—

(g) under section 34(2), (3) or (4) of the Animal Welfare Act 2006,”.

Guard Dogs Act 1975 (c. 50)

8 In section 3 of the Guard Dogs Act 1975 (guard dog kennel licences), in subsection (4), after “1973,” insert “or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006,”.

Dangerous Wild Animals Act 1976 (c. 38)

9 In section 6 of the Dangerous Wild Animals Act 1976 (penalties), in subsection (2)—

(a) for “Protection of Animals Acts 1911 to 1964,” substitute “Protection of Animals Act 1911,”

(b) after “1912 to 1964,” insert “the Performing Animals (Regulation) Act 1925,”

(c) after “1951,” insert “the Animals (Cruel Poisons) Act 1962,” and

(d) after “1973,” insert “or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006,”.

Magistrates' Courts Act 1980 (c. 43)

10 In section 108 of the Magistrates' Courts Act 1980 (right of appeal to the Crown Court), in subsection (3)(c), for “section 2 of the Protection of Animals Act 1911” substitute “section 37(1) of the Animal Welfare Act 2006”.

Zoo Licensing Act 1981 (c. 37)

11 In section 4 of the Zoo Licensing Act 1981 (grant or refusal of licence), in subsection (5)—

(a) for “the Protection of Animals Acts 1911 to 1964” substitute “the Protection of Animals Act 1911”,

(b) after the entry for the Protection of Animals (Scotland) Acts 1912 to 1964, insert—

“the Performing Animals (Regulation) Act 1925;”,

(c) after the entry for the Pet Animals 1951, insert—

“the Animals (Cruel Poisons) Act 1962;”, and

(d) at the end, insert—

“sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006.”

Animals (Scientific Procedures) Act 1986 (c. 14)

12 (1) In section 22(5) of the Animals (Scientific Procedures) Act 1986 (penalties for contraventions)—

(a) for “section 1 of the Protection of Animals Act 1911” substitute “any of sections 4, 5, 6(1) and (2), 7 and 8 of the Animal Welfare Act 2006”, and

(b) at the end insert “(rather than any penalty by way of imprisonment or fine provided for in those Acts)”.

(2) In section 26 of that Act (prosecutions), in subsection (1)(b), for “section 1 of the Protection of Animals Act 1911” substitute “any of sections 4, 5, 6(1) and (2) and 7 to 9 of the Animal Welfare Act 2006”.

(3) In section 29 of that Act (application to Northern Ireland), for subsection (5) substitute—

“(5) In section 22(5) above for the reference to sections 4, 5, 6(1) and (2), 7 and 8 of the Animal Welfare Act 2006 there shall be substituted a reference to sections 13 and 14 of the Welfare of Animals Act (Northern Ireland) 1972.

(5A) In section 26(1)(b) above for the reference to sections 4, 5, 6(1) and (2) and 7 to 9 of the Animal Welfare Act 2006 there shall be substituted a reference to sections 13 and 14 of the Welfare of Animals Act (Northern Ireland) 1972.”

Wild Mammals (Protection) Act 1996 (c. 3)

13 For section 3 of the Wild Mammals (Protection) Act 1996 (interpretation) substitute—

“3 Interpretation

In this Act “wild mammal” means any mammal which is not a “protected animal” within the meaning of the Animal Welfare Act 2006.”

Criminal Justice and Police Act 2001 (c. 16)

14 (1) In section 57 of the Criminal Justice and Police Act 2001 (retention of seized items), in subsection (1), at the end insert—

“(r) paragraph 12(3) of Schedule 2 to the Animal Welfare Act 2006.”

(2) In section 66 of that Act (general interpretation of Part 2), in subsection (4), at the end insert—

“(p) sections 26(1), 27(1), 28(1) and 29(1) of the Animal Welfare Act 2006 (inspection in connection with licences, inspection in connection with registration, inspection of farm premises and inspection relating to Community obligations).”

(3) In Part 1 of Schedule 1 to that Act (powers of seizure to which section 50 applies), at the end insert—

“*Animal Welfare Act 2006*

73I The power of seizure conferred by paragraph 10(2)(j) of Schedule 2 to the Animal Welfare Act 2006

SCHEDULE 4 REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Metropolitan Police Act 1839 (c. 47)	Section 47.
Town Police Clauses Act 1847 (c. 89)	Section 36.
Protection of Animals Act 1911 (c. 27)	Sections 1 to 3, 5 to 5B, 7, 9 and 11 to 14. In section 15, paragraphs (a), (c), (e) and (f).
Protection of Animals (1911) Amendment Act 1921 (c. 14)	The whole Act.
Protection of Animals Act 1934 (c. 21)	The whole Act.
Docking and Nicking of Horses Act 1949 (c. 70)	Section 1. In section 3, the definition of “nicking”.
Pet Animals Act 1951 (c. 35)	Sections 2 and 3.
Cockfighting Act 1952 (c. 59)	The whole Act.
Protection of Animals (Amendment) Act 1954 (c. 40)	Sections 1, 2 and 4(1).
Protection of Animals (Anaesthetics) Act 1954 (c. 46)	The whole Act.
Abandonment of Animals Act 1960 (c. 43)	The whole Act.
Animals (Cruel Poisons) Act 1962 (c. 26)	In section 4(2), the words from “and the Protection of Animals Acts 1911” to “and this Act”.
Protection of Animals (Anaesthetics) Act 1964 (c. 39)	The whole Act.
Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)	Part 1.

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Animal Health Act 1981 (c. 22)	Sections 37 to 39. In Schedule 5, paragraph 8.
Animals (Scientific Procedures) Act 1986 (c. 14)	In Schedule 3, paragraphs 1 and 7.
Protection of Animals (Penalties) Act 1987 (c. 35)	The whole Act.
Protection of Animals (Amendment) Act 1988 (c. 29)	Section 1. In section 2— (a) in subsection (1), the words “section 47 of the Metropolitan Police Act 1839,” and the words “and section 36 of the Town Police Clauses Act 1847”, and (b) subsection (2).
Protection against Cruel Tethering Act 1988 (c. 31)	The whole Act.
Protection of Animals (Amendment) Act 2000 (c. 40)	The whole Act.



Protection of Animals Act 1911

1911 CHAPTER 27 1_and_2_Geo_5

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22. FIRST SCHEDULE

An Act to consolidate, amend, and extend certain enactments relating to Animals and to Knackers; and to make further provision with respect thereto.

[18th August 1911]

Annotations:

Modifications etc. (not altering text)

C1Act extended by Protection of Animals (Cruelty to Dogs) Act 1933 (c. 17), s. 1, Protection of Animals (Amendment) Act 1954 (c. 40), s. 1(1) and Abandonment of Animals Act 1960 (c. 43), s. 1; saved by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 8(5)

C2Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), s. 3

C3This Act is not necessarily in the form in which it has effect in Northern Ireland

Commencement Information

I1Act wholly in force at 1.1.1912 by s. 19(1) (now repealed)

1 Offences of cruelty

(1)If any person—

(a)shall cruelly beat, kick, ill-treat, over-ride, over-drive, over-load, torture, infuriate, or terrify any animal, or shall cause or procure, or, being the owner, permit any animal to be so used, or shall, by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, cause any unnecessary suffering, or, being the owner, permit any unnecessary suffering to be so caused to any animal; or

(b)shall convey or carry, or cause or procure, or, being the owner, permit to be conveyed or carried, any animal in such manner or position as to cause that animal any unnecessary suffering; or

(c)shall cause, procure, or assist at the fighting or baiting of any animal; or shall keep, use, manage, or act or assist in the management of, any premises or place for the purpose, or partly for the purpose of fighting or baiting any animal, or shall permit any premises or place to be so kept, managed, or used, or shall receive, or cause or procure any person to receive, money for the admission of any person to such premises or place; or

(d)shall wilfully, without any reasonable cause or excuse, administer, or cause or procure, or being the owner permit, such administration of, any poisonous or injurious drug or substance to any animal, or shall wilfully, without any reasonable cause or excuse, cause any such substance to be taken by any animal; or

(e)shall subject, or cause to procure, or being the owner permit, to be subjected, any animal to any operation which is performed without due care and humanity; [**F1**or

(f)shall tether any horse, ass or mule under such conditions or in such manner as to cause that animal unnecessary suffering;]

such person shall be guilty of an offence of cruelty within the meaning of this Act, and [F2shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or both]

(2)For the purposes of this section, an owner shall be deemed to have permitted cruelty within the meaning of this Act if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom:

Provided that, where an owner is convicted of permitting cruelty within the meaning of this Act by reason only of his having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3)Nothing in this section shall render illegal any act lawfully done under [F3the M1Animals (Scientific Procedures) Act 1986], or shall apply—

(a)to the commission or omission of any act in the course of the destruction, or the preparation for destruction, of any animal as food for mankind, unless such destruction or such preparation was accompanied by the infliction of unnecessary suffering; or

(b)to the coursing or hunting of any captive animal, unless such animal is liberated in an injured, mutilated, or exhausted condition; but a captive animal shall not, for the purposes of this section, be deemed to be coursed or hunted before it is liberated for the purpose of being coursed or hunted, or after it has been recaptured, or if it is under control [F4and a captive animal shall not be deemed to be coursed or hunted within the meaning of this subsection if it is coursed or hunted in an enclosed space from which it has no reasonable chance of escape.]

Annotations:

Amendments (Textual)

F1Words added by Protection against Cruel Tethering Act 1988 (c. 31, SIF 4:5), s. 1

F2Words substituted by Protection of Animals (Penalties) Act 1987 (c. 35, SIF 4:5), s. 1(1)(2)

F3Words substituted by Animals (Scientific Procedures) Act 1986 (c. 14, SIF 4:5), s. 27(2), Sch. 3 para. 1

F4Words added by Protection of Animals Act (1911) Amendment Act 1921 (c. 14, SIF 4:5), s. 1

Modifications etc. (not altering text)

C1S. 1 extended by Animal Boarding Establishments Act 1963 (c. 43, SIF 4:5), s. 3(3), and Breeding of Dogs Act 1973 (c. 60), s. 3(3)

C2S. 1 restricted by Animals (Scientific Procedures) Act 1986 (c. 14, SIF 4:5), s. 26(1)(b)

C3S. 1(1) amended as to imprisonment with hard labour by Criminal Justice Act 1948 (c. 58, SIF 39:1), s. 1(2)

C4S. 1(1)(e) extended by Protection of Animals (Anaesthetics) Act 1954 (c. 46, SIF 4:5), s. 1(1)

Marginal Citations

M11986 c. 14.

2 Power for court to order destruction of animal

Where the owner of an animal is convicted of an offence of cruelty within the meaning of this Act, it shall be lawful for the court, if the court is satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed, and to assign the animal to any suitable person for that purpose; and the person to whom such animal is so assigned shall, as soon as possible, destroy such animal, or cause or procure such animal to be destroyed, in his presence without unnecessary suffering. Any

reasonable expenses incurred in destroying the animal may be ordered by the court to be paid by the owner, and thereupon shall be recoverable summarily as a civil debt:

Provided that, unless the owner assent, no order shall be made under this section except upon the evidence of a duly registered veterinary surgeon.

3 Power for court to deprive person convicted of cruelty of ownership of animal

If the owner of any animal shall be guilty of cruelty within the meaning of this Act to the animal, the court, upon his conviction thereof, may, if they think fit, in addition to any other punishment, deprive such person of the ownership of the animal, and may make such order as to the disposal of the animal as they think fit under the circumstances:

Provided that no order shall be made under this section, unless it is shown by evidence as to a previous conviction, or as to the character of the owner, or otherwise, that the animal, if left with the owner, is likely to be exposed to further cruelty.

4. **F1**

Annotations:

Amendments (Textual)

F1S. 4 repealed by Criminal Justice Act 1972 (c. 71), Sch. 6 Pt. II

5 Compliance by knackers with certain regulations

(1). **F1**

(2)Any constable shall have a right to enter any knacker's yard at any hour by day, or at any hour when business is or apparently is in progress or is usually carried on therein, for the purpose of examining whether there is or has been any contravention of or non-compliance with the provisions of this Act, and, if any person refuses to permit any constable to enter any premises which he is entitled to enter under this section, or obstructs or impedes him in the execution of his duty under this section, he shall, upon summary conviction, be liable to a fine not exceeding [**F2**level 1 on the standard scale].

(3)For the purposes of section one, which relates to offences of cruelty, of this Act, a knacker shall be deemed to be the owner of any animal delivered to him.

(4)For the purposes of this Act, an animal shall be deemed to have been delivered to a knacker if it has been delivered either to the knacker himself, or to any person on his behalf, or at the knacker's yard.

Annotations:

Amendments (Textual)

F1Ss. 5(1), 6 repealed by Slaughter of Animals (Amendment) Act 1954 (c. 59), Sch. 2 Pt. II

F2Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

[**F15A** Attendance at animal fights

A person who, without reasonable excuse, is present when animals are placed together for the purpose of their fighting each other shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Annotations:

Amendments (Textual)

F1Ss. 5A, 5B inserted by Protection of Animals (Amendment) Act 1988 (c. 29, SIF 4:5), s. 2(2)

5B Advertising of animal fights

If a person who publishes or causes to be published an advertisement for a fight between animals knows that it is such an advertisement he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

6. F1

Annotations:

Amendments (Textual)

F1Ss. 5(1), 6 repealed by Slaughter of Animals (Amendment) Act 1954 (c. 59), Sch. 2 Pt. II

7 Animals in pounds

(1)Any person who impounds or confines, or causes to be impounded or confined, any animal in any pound shall, while the animal is so impounded or confined, supply it with a sufficient quantity of wholesome and suitable food and water, and, if he fails to do so, he shall be liable upon summary conviction to a fine not exceeding [F1level 1 on the standard scale]

(2)If any animal is impounded or confined in any pound and is without sufficient suitable food or water for six successive hours, or longer, any person may enter the pound for the purpose of supplying the animal therewith.

(3)The reasonable cost of the food and water supplied to any animal impounded or confined in any pound shall be recoverable summarily from the owner of the animal as a civil debt.

Annotations:

Amendments (Textual)

F1Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

8 Poisoned grain and flesh, &c

If any person—

(a)shall sell, or offer or expose for sale, or give away, or cause or procure any person to sell or offer or expose for sale or give away, or knowingly be 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 bonâ fide use in agriculture; or

(b)shall knowingly put or place, or cause or procure any person to put or place, or knowingly be a party to the putting or placing, in or upon any land or building any poison, or any fluid or edible matter (not being sown seed or grain) which has been rendered poisonous,

such person shall, upon summary conviction, be liable to a fine not exceeding [F1level 4 on the standard scale]

[F2Provided that, in any proceedings under paragraph (b) of this section, it shall be a defence that the poison was placed by the accused for the purpose of destroying insects and other invertebrates, rats, mice, or other small ground vermin, where such is found to be necessary in the interests of public health, agriculture, or the preservation of other animals, domestic or wild, or for the purpose of manuring the land, and that he took all reasonable precautions to prevent injury thereby to dogs, cats, fowls, or other domestic animals and wild birds.]

Annotations:

Amendments (Textual)

F1Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 39, 46, Sch. 3

F2Proviso substituted by Protection of Animals (Amendment) Act 1927 (c. 27,SIF 4:5), s. 1

Modifications etc. (not altering text)

C1S. 8 amended (except as to London) by Prevention of Damage by Rabbits Act 1939 (c. 43, SIF 4:5) s. 4; and Animals (Cruel Poisons) Act 1962 (c. 26), s. 1

C2S. 8(b) restricted by Agriculture (Miscellaneous Provisions) Act 1972 (c. 62, SIF 2:1), s. 19(2)

C3S. 8(b) restricted by Badgers Act 1973 (c. 57, SIF 4:5), s. 9(4)

C4S. 8(b) excluded by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 16(7)

C5S. 8(b) modified (E.W)(16.10.1992) by Protection of Badgers Act 1992 (c. 51), ss. 10(10), 15(3)

9 Use of dogs for purposes of draught

If any person shall use, or cause or procure, or being the owner permit, to be used, any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow, on any public highway, he shall be liable upon summary conviction in respect of the first offence to a fine not exceeding [F1level 1 on the standard scale], and in respect of the second or any subsequent offence to a fine not exceeding [F1level 1 on the standard scale.]

Annotations:

Amendments (Textual)

F1 Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

10 Inspection of traps

Any person who sets, or causes or procures to be set, any spring trap for the purpose of catching any hare or rabbit, or which is so placed as to be likely to catch any hare or rabbit, shall 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, and, if any person shall fail to comply with the provisions of this section, he shall be liable, upon summary conviction, to a fine not exceeding [F1level 1 on the standard scale]

Annotations:

Amendments (Textual)

F1 Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

11 Injured animals

(1) If a police constable finds any animal so diseased or so severely injured or in such a physical condition that, in his opinion, having regard to the means available for removing the animal, there is no possibility of removing it without cruelty, he shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon a duly registered veterinary surgeon, if any such veterinary surgeon resides within a reasonable distance, and, if it appears by the certificate of such veterinary surgeon that the animal is mortally injured, or so severely injured, or so diseased, or in such physical condition, that it is cruel to keep it alive, it shall be lawful for the police constable, without the consent of the owner, to slaughter the animal, or cause or procure it to be slaughtered, with such instruments or appliances, and with such precautions, and in such manner, as to inflict as little suffering as practicable, and, if the slaughter takes place on any public highway, to remove the carcase or cause or procure it to be removed therefrom.

(2) If any veterinary surgeon summoned under this section certifies that the injured animal can without cruelty be removed, it shall be the duty of the person in charge of the animal to cause it forthwith to be removed with as little suffering as possible, and, if that person fail so to do, the police constable may, without the consent of that person, cause the animal forthwith to be so removed.

(3) Any expense which may be reasonably incurred by any constable in carrying out the provisions of this section (including the expenses of any veterinary surgeon summoned by the constable, and whether the animal is slaughtered under this section or not) may be recovered from the owner summarily as a civil debt, and, subject thereto, any such expense shall be defrayed out of the fund from which the expenses of the police are payable in the area in which the animal is found.

(4) For the purposes of this section, the expression “animal” means any horse, mule, ass, bull, sheep, goat or pig.

12 Powers of constables

(1) A police constable may apprehend without warrant any person who he has reason to believe is guilty of an offence under this Act which is punishable by imprisonment without the option of a fine, whether upon his own view thereof or upon the complaint and information of any other person who shall declare his name and place of abode to such constable.

(2) Where a person having charge of a vehicle or animal is apprehended by a police constable for an offence under this Act, it shall be lawful for that or any other constable to take charge of such vehicle or animal, and to deposit the same in some place of safe custody until the termination of the proceedings or until the court shall direct such vehicle or animal to be delivered to the person charged or the owner, and the reasonable costs of such detention, including the reasonable costs of veterinary treatment where such treatment is required, shall, in the event of a conviction in respect of the said animal, be recoverable from the owner summarily as a civil debt, or, where the owner himself is convicted, shall be part of the costs of the case.

13 Employers and owners to produce drivers or animals if so required

(1) Where proceedings are instituted under this Act against the driver or conductor of any vehicle, it shall be lawful for the court to issue a summons directed to the employer of the driver or conductor, as the case may be, requiring him, if it is in his power so to do, to produce the driver or conductor at the hearing of the case.

(2) Where proceedings are instituted under this Act, it shall be lawful for the court to issue a summons directed to the owner of the animal requiring him to produce either at, or at any time before, the hearing of the case, as may be stated in the summons, the animal for the inspection of the court, if such production is possible without cruelty.

(3) Where a summons is issued under either of the foregoing subsections of this section, and the owner or employer, as the case may be, fails to comply therewith without satisfactory excuse, he shall be liable upon summary conviction to a fine not exceeding [F1level 1 on the standard scale] for the first occasion, and not exceeding [F1level 1 on the standard scale] for the second or any subsequent occasion, on which he so fails, and may be required to pay the costs of any adjournment rendered necessary by his failure.

Annotations:

Amendments (Textual)

F1 Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

14 Appeals

(1) An appeal shall lie from any conviction or order (other than an order for the destruction of an animal) by a court of summary jurisdiction under this Act to quarter sessions.

(2) Where there is an appeal by the owner of an animal from any conviction or order by a court of summary jurisdiction under this Act, the court may [F1order him] not to sell or part with the animal until the appeal is determined or abandoned, and to produce it on the hearing of the appeal if such production is possible without cruelty [F2and a person who fails to comply with an order under this

section without satisfactory excuse shall be liable on summary conviction to a fine not exceeding [F3level 1 on the standard scale]].

Annotations:

Amendments (Textual)

F1 Words substituted by Criminal Justice Act 1948 (c. 58, SIF 39:1), Sch. 9

F2 Words added by Criminal Justice Act 1948 (c. 58, SIF 39:1), Sch. 9

F3 Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

Modifications etc. (not altering text)

C1S. 14(1) amended with the substitution for the reference to quarter sessions of a reference to the Crown Court by Courts Act 1971 (c. 23), s. 56(2), Sch. 9 Pt. I

15 Definitions

In this Act, except the context otherwise requires, or it is otherwise expressly provided—

(a) the expression “animal” means any domestic or captive animal;

(b) the expression “domestic animal” means any horse, ass, mule, bull, sheep, pig, goat, dog, cat, or fowl, or any other animal of whatsoever kind or species, and 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) the expression “captive animal” means any animal (not being a domestic animal) of whatsoever kind or species, and whether a quadruped or not, including any bird, fish, or reptile, which is in captivity, or confinement, or which is maimed, pinioned, or subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement;

(d) the expression “horse” includes any mare, gelding, pony, foal, colt, filly, or stallion; and the expression “bull” includes any cow, bullock, heifer, calf, steer or ox, and the expression “sheep” includes any lamb, ewe, or ram; and the expression “pig” includes any boar, hog, or sow; and the expression “goat” includes a kid; and the expression “dog” includes any bitch, sapling, or puppy; and the expression “cat” includes a kitten; and the expression “fowl” includes any cock, hen, chicken, capon, turkey, goose, gander, duck, drake, guinea-fowl, peacock, peahen, swan, or pigeon;

(e) the expression “knacker” means a person whose trade or business it is to kill any cattle not killed for the purpose of the flesh being used as butcher’s meat, and the expression “knacker’s yard” means any building or place used for the purpose, or partly for the purpose, of such trade or business, and the expression “cattle” includes any horse, ass, mule, bull, sheep, goat, or pig;

(f) The expression “pound,” used in relation to the impounding or confining of animals, includes any receptacle of a like nature.

16 Extent of Act

This Act shall not apply to Scotland.

17 Application to Ireland

..... **F1**

Annotations:

Amendments (Textual)

F1S. 17 repealed by Statute Law (Repeals) Act 1976 (c. 16), Sch. 1 Pt. III

18. **F1**

Annotations:

Amendments (Textual)

F1S. 18 repealed by Statute Law Revision Act 1927 (c. 42)

19†Commencement, saving for pending proceedings, and short title

(1). **F1**

(2). **F1**

(3)This Act may be cited as the Protection of Animals Act, 1911.

Annotations:

Amendments (Textual)

F1S. 19(1)(2) repealed by Statute Law Revision Act 1927 (c. 42)

Modifications etc. (not altering text)

C1A dagger appended to a marginal note means that it is no longer accurate

FIRST SCHEDULE

. **F1**

Annotations:

Amendments (Textual)

F1First Schedule repealed by Slaughter of Animals
(Amendment) Act 1954 (C.59) Sch.2 Part II



Protection of Animals (Anaesthetics) Act 1954

1954 CHAPTER 46 2_and_3_Eliz_2

An Act to repeal the Animals (Anaesthetics) Act, 1919, and to extend the provisions of the Protection of Animals Acts in relation to the performance of operations on animals.

[30th July 1954]

Annotations:

Modifications etc. (not altering text)

C1Act: Functions transferred (27.12.1999) by S.I. 1999/3141, art. 2(1), Sch. (with arts. 2(5), 3)

C2Act: Functions transferred (W.)(1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

C3Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), s. 3

1 Use of anaesthetics in operations on animals

(1)If any operation to which this section applies is performed on any animal without the use of an anaesthetic so administered as to prevent any pain during the operation, that operation shall be deemed for the purposes of the principal Act to be an operation which is performed without due care and humanity.

(2)This section applies to any operation with or without the use of instruments which involves interference with the sensitive tissues or the bone structure of an animal, other than—

- (a)the making of injections or extractions by means of a hollow needle; or
- (b)an operation included in the First Schedule to this Act.

(3)The Minister of Agriculture and Fisheries and [**F1**the Secretary of State for Scotland and the Secretary of State for Wales], acting jointly, may, after consultation with the Royal College of Veterinary Surgeons and with such persons appearing to [**F1**those Ministers] to represent agricultural

interests as may appear to [F1those Ministers] appropriate, by order amend any of the ages specified in paragraph 6 of the said First Schedule; and any order under this subsection—

(a) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) may be varied or revoked by a subsequent order thereunder.

(4) This Act shall be construed as one with the principal Act, so, however, that in this Act the expression “animal” shall not include a fowl or other bird, fish or reptile.

(5) In this section, the expression “the principal Act” means—

(a) in relation to England and Wales, the M1Protection of Animals Act, 1911; and

(b) in relation to Scotland, the M2Protection of Animals (Scotland) Act, 1912;

as amended by or under any other enactment.

Annotations:

Amendments (Textual)

F1Words substituted by S.I. 1978/272, Sch. 5 para. 5

Modifications etc. (not altering text)

C1Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food: S.I. 1955/554 (1955 I, p. 1200)

C2Certain functions of Minister of Agriculture, Fisheries and Food transferred by S.I. 1978/272, art. 2

Marginal Citations

M11911 c. 27.

M21912 c. 14.

2 Citation, repeal, extent and commencement

(1) This Act may be cited as the Protection of Animals (Anaesthetics) Act, 1954.

(2) This Act and the Acts specified in Part I of the Second Schedule to this Act may be cited together as the Protection of Animals Acts, 1911 to 1954.

(3) This Act and the Acts specified in Part II of the said Second Schedule may be cited together as the Protection of Animals (Scotland) Acts, 1912 to 1954.

(4) F1

(5) This Act shall not extend to Northern Ireland.

(6) This Act shall come into operation on the first day of September, nineteen hundred and fifty-four.

Annotations:

Amendments (Textual)

F1S. 2(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

SCHEDULES

FIRST SCHEDULE EXCEPTED OPERATIONS

1[F1Any procedure duly authorised under the Animals (Scientific Procedures) Act 1986].

Annotations:**Amendments (Textual)**

F1Sch. 1 para. 1 substituted by Animals (Scientific Procedures) Act 1986 (c. 14, SIF 4:5), s. 27(2), Sch. 3 para. 3

2The rendering in emergency of first aid for the purpose of saving life or relieving pain.

3The docking of the tail of a dog before its eyes are open.

4The amputation of the dew claws of a dog before its eyes are open.

5..... **F1**

Annotations:**Amendments (Textual)**

F1Sch. 1 para. 5 repealed by Protection of Animals (Anaesthetics) Act 1964 (c. 39), s. 1(1)(2)

[F16The castration of a male animal specified in the following table before it has reached the age so specified, that is to say—

bull	[F22 months]
sheep	3 months
goat	2 months
[F3pig]	[F34 weeks]

Annotations:**Amendments (Textual)**

F1Paras. 6, 6A substituted for para. 6 by Protection of Animals (Anaesthetics) Act 1964 (c. 39), s. 1(1)(3)

F2Words substituted by S.I. 1982/1626, art. 2

F3Words in Sch. 1 para. 6 substituted (10.8.1994) by S.I. 1994/2126, reg. 8(2)

6AThe foregoing paragraph shall not apply to the castration of an animal by using a rubber ring or other device to constrict the flow of blood to the scrotum unless the device is applied within the first week of life.]

7Any minor operation performed by a veterinary surgeon or veterinary practitioner, being an operation which, by reason of its quickness or painlessness, is customarily so performed without the use of an anaesthetic.

Annotations:**Modifications etc. (not altering text)**

C1Para. 7 amended by Protection of Animals (Anaesthetics) Act 1964 (c. 39), s. 1(1)(4)

C2Power to modify para. 7 given by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 5

C3Paras. 7, 8 amended by S.I. 1980/685, art. 2

8Any minor operation, whether performed by a veterinary surgeon or veterinary practitioner or by some other person, being an operation which is not customarily performed only by such a surgeon or practitioner.

Annotations:

Modifications etc. (not altering text)

C1Para. 8 amended by Protection of Animals (Anaesthetics) Act 1964 (c. 39), s. 1(1)(4)

C2Power to modify para. 8 given by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 5

C3Paras. 7, 8 amended by S.I. 1980/685, art. 2

Section 2.

SECOND SCHEDULE ACTS WHICH MAY BE CITED TOGETHER

PART I

The **M1**Protection of Animals Act, 1911.

The **M2**Protection of Animals Act (1911) Amendment Act, 1912.

The **M3**Protection of Animals Act (1911) Amendment Act, 1921.

The **M4**Performing Animals (Regulation) Act, 1925.

The **M5**Protection of Animals (Amendment) Act, 1927.

The **M6**Protection of Animals (Cruelty to Dogs) Act, 1933.

The **M7**Protection of Animals Act, 1934.

The **M8**Protection of Animals (Amendment) Act, 1954.

Annotations:

Marginal Citations

M11911 c. 27.

M21912 c. 17.

M31921 c. 14.

M41925 c. 38

M51927 c. 27.

M61933 c. 17.

M71934 c. 21.

M81954 c. 40.

PART II

The **M1**Protection of Animals (Scotland) Act, 1912.

The **M2**Protection of Animals (Scotland) Act, 1912,
Amendment Act, 1921.

The **M3**Performing Animals (Regulation) Act, 1925.

The **M4**Protection of Animals Act, 1934.

The **M5**Protection of Animals (Cruelty to Dogs)
(Scotland) Act, 1934.

The **M6**Protection of Animals (Amendment) Act,
1954.

Annotations:

Marginal Citations

M11912 c. 14.

M21921 c. 22.

M31925 c. 38.

M41934 c. 21.

M51934 c. 25.

M61954 c. 40.



Protection Of Animals (Anaesthetics) Act 1964

1964 CHAPTER 39

An Act to amend the Protection of Animals (Anaesthetics) Act 1954.

[10th June 1964]

Annotations:

Modifications etc. (not altering text)

C1 Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), s. 3

1 Enlargement of classes of operations in which anaesthetics must be used

(1) Schedule 1 to the **M1** Protection of Animals (Anaesthetics) Act 1954 (which lists operations which may be performed without an anaesthetic) shall be amended as follows.

(2) **F1**

(3) For paragraph 6 (castration of horses, asses or mules, bulls, sheep, goats and pigs below certain ages) there shall be substituted the following paragraphs—

The castration of a male animal specified in the following table before it has reached the age so specified, that is to say—

bull	...	3 months
sheep	...	3 months
goat	...	2 months
pig	...	2 months

The foregoing paragraph shall not apply to the castration of an animal by using a rubber ring or other device to constrict the flow of blood to the scrotum unless the device is applied within the first week of life.”

(4) Paragraphs 7 and 8 (minor operations which are customarily performed without an anaesthetic) shall not in any circumstances permit—

(a) the castration of a male animal (but without prejudice to the circumstances in which castration is permitted by paragraph 6 of the Schedule as set out in subsection (3) of this section);

(b) the de-horning of cattle;

(c) the dis-budding of calves, except by means of chemical cauterisation applied within the first week of life; or

(d) the docking of lambs' tails by using a rubber ring or other device to constrict the flow of blood to the tail, unless the device is applied within the first week of life.

(5) In this section “cattle” means bulls, cows, bullocks, heifers, calves, steers or oxen.

Annotations:

Amendments (Textual)

F1 S. 1(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

Modifications etc. (not altering text)

C1 The text of S. 1(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M1 1954 c. 46.

2 Short title, citation, extent and commencement

(1) This Act may be cited as the Protection of Animals (Anaesthetics) Act 1964, and—

(a) this Act and the Protection of Animals Acts 1911 to 1962 may be cited together as the Protection of Animals Acts 1911 to 1964; and

(b) this Act and the Protection of Animals (Scotland) Acts 1912 to 1962 may be cited together as the Protection of Animals (Scotland) Acts 1912 to 1964.

(2) This Act shall not extend to Northern Ireland.

(3) This Act shall come into operation at the expiration of the period of two months beginning with the date on which it is passed.



Animals (Scientific Procedures) Act 1986

1986 CHAPTER 14

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TRANSITIONAL PROVISIONS

An Act to make new provision for the protection of animals used for experimental or other scientific purposes.
[20th May 1986]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations:

Modifications etc. (not altering text)

C1 Act excluded (23.1.1995) by S.I. 1994/3249, art. 3(5)

Extent Information

E1 Act extends to Northern Ireland but the operation of s. 29 is limited by application as mentioned in s. 29(2)

Commencement Information

I1 Act not in force at Royal Assent see s.30(3); Act wholly in force at 1.1.1990.

Preliminary

1 Protected animals

(1) Subject to the provisions of this section, “a protected animal” for the purposes of this Act means any living vertebrate other than man.

(2) Any such vertebrate in its foetal, larval or embryonic form is a protected animal only from the stage of its development when—

(a) in the case of a mammal, bird or reptile, half the gestation or incubation period for the relevant species has elapsed; and

(b) in any other case, it becomes capable of independent feeding.

(3) The Secretary of State may by order—

(a) extend the definition of protected animal so as to include invertebrates of any description;

(b) alter the stage of development specified in subsection (2) above;

(c) make provision in lieu of subsection (2) above as respects any animal which becomes a protected animal by virtue of an order under paragraph (a) above.

(4) For the purposes of this section an animal shall be regarded as continuing to live until the permanent cessation of circulation or the destruction of its brain.

(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.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

2 Regulated procedures

(1) Subject to the provision of this section, “a regulated procedure” for the purposes of this Act means any experimental or other scientific procedure applied to a protected animal which may have the effect of causing that animal pain, suffering, distress or lasting harm.

(2) An experimental or other scientific procedure applied to an animal is also a regulated procedure if—

(a) it is part of a series or combination of such procedures (whether the same or different) applied to the same animal; and

(b) the series or combination may have the effect mentioned in subsection (1) above; and

(c) the animal is a protected animal throughout the series or combination or in the course of it attains the stage of its development when it becomes such an animal.

(3) Anything done for the purpose of, or liable to result in, the birth or hatching of a protected animal is also a regulated procedure if it may as respects that animal have the effect mentioned in subsection (1) above.

(4) In determining whether any procedure may have the effect mentioned in subsection (1) above the use of an anaesthetic or analgesic, decerebration and any other procedure for rendering an animal insentient shall be disregarded; and the administration of an anaesthetic or analgesic to a protected animal, or decerebration or any other such procedure applied to such an animal, for the purposes of any experimental or other scientific procedure shall itself be a regulated procedure.

(5) The ringing, tagging or marking of an animal, or the application of any other humane procedure for the sole purpose of enabling an animal to be identified, is not a regulated procedure if it causes only momentary pain or distress and no lasting harm.

(6) The administration of any substance or article to an animal by way of a medicinal test on animals as defined in subsection (6) of section 32 of the **M1** Medicines Act 1968 is not a regulated procedure if the substance or article is administered in accordance with the provisions of subsection (4) of that section or of an order under section 35(8)(b) of that Act.

(7) Killing a protected animal is a regulated procedure only if it is killed for experimental or other scientific use, the place where it is killed is a designated establishment and the method employed is not one appropriate to the animal under Schedule 1 to this Act.

(8) In this section references to a scientific procedure do not include references to any recognised veterinary, agricultural or animal husbandry practice.

(9) Schedule 1 to this Act may be amended by orders made by the Secretary of State.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Marginal Citations

M1 1968 c. 67.

Personal and project licences

3 Prohibition of unlicensed procedures

No person shall apply a regulated procedure to an animal unless—

(a) he holds a personal licence qualifying him to apply a regulated procedure of that description to an animal of that description;

(b) the procedure is applied as part of a programme of work specified in a project licence authorising the application, as part of that programme, of a regulated procedure of that description to an animal of that description; and

(c) the place where the procedure is carried out is a place specified in the personal licence and the project licence.

4 Personal licences

(1) A personal licence is a licence granted by the Secretary of State qualifying the holder to apply specified regulated procedures to animals of specified descriptions at a specified place or specified places.

(2) An application for a personal licence shall be made to the Secretary of State in such form and shall be supported by such information as he may reasonably require.

(3) Except where the Secretary of State dispenses with the requirements of this subsection any such application shall be endorsed by a person who—

(a) is himself the holder of a personal licence or a licence treated as such a licence by virtue of Schedule 4 to this Act; and

(b) has knowledge of the biological or other relevant qualifications and of the training, experience and character of the applicant;

and the person endorsing an application shall, if practicable, be a person occupying a position of authority at a place where the applicant is to be authorised by the licence to carry out the procedures specified in it.

(4) No personal licence shall be granted to a person under the age of eighteen.

[F1(4A) The Secretary of State shall not grant a personal licence to a person unless he is satisfied that the person—

(a) has appropriate education and training (including instruction in a relevant scientific discipline) for the purpose of applying the regulated procedures to be specified in the licence; and

(b) is competent to apply those procedures in accordance with the conditions which are to be included in the licence and to handle and take care of laboratory animals.]

(5) A personal licence shall continue in force until revoked but the Secretary of State shall review each personal licence granted by him at intervals not exceeding five years and may for that purpose require the holder to furnish him with such information as he may reasonably require.

Annotations:

Amendments (Textual)

F1 S. 4(4A) inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 2

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

5 Project licences

(1) A project licence is a licence granted by the Secretary of State specifying a programme of work and authorising the application, as part of that programme, of specified regulated procedures to animals of specified descriptions at a specified place or specified places.

(2) A project licence shall not be granted except to a person who undertakes overall responsibility for the programme to be specified in the licence.

(3) A project licence shall not be granted for any programme unless the Secretary of State is satisfied that it is undertaken for one or more of the following purposes—

(a) the prevention (whether by the testing of any product or otherwise) or the diagnosis or treatment of disease, ill-health or abnormality, or their effects, in man, animals or plants;

(b) the assessment, detection, regulation or modification of physiological conditions in man, animals or plants;

(c) the protection of the natural environment in the interests of the health or welfare of man or animals;

(d) the advancement of knowledge in biological or behavioural sciences;

(e) education or training otherwise than in primary or secondary schools;

(f) forensic enquiries;

(g) the breeding of animals for experimental or other scientific use.

(4) In determining whether and on what terms to grant a project licence the Secretary of State shall weigh the likely adverse effects on the animals concerned against the benefit likely to accrue as a result of the programme to be specified in the licence.

[F1(5) The Secretary of State shall not grant a project licence unless he is satisfied—

(a) that the purpose of the programme to be specified in the licence cannot be achieved satisfactorily by any other reasonably practicable method not entailing the use of protected animals; and

(b) that the regulated procedures to be used are those which use the minimum number of animals, involve animals with the lowest degree of neurophysiological sensitivity, cause the least pain, suffering, distress or lasting harm, and are most likely to produce satisfactory results.]

(6) The Secretary of State shall not grant a project licence authorising the use of cats, dogs, primates or equidae unless he is satisfied that animals of no other species are suitable for the purposes of the programme to be specified in the licence or that it is not practicable to obtain animals of any other species that are suitable for those purposes.

(7) Unless revoked and subject to subsection (8) below, a project licence shall continue in force for such period as is specified in the licence and may be renewed for further periods but (without prejudice to the grant of a new licence in respect of the programme in question) no such licence shall be in force for more than five years in all.

(8) A project licence shall terminate on the death of the holder but if—

(a) the holder of a certificate under section 6 below in respect of a place specified in the licence; or

(b) where by virtue of subsection (2) of that section the licence does not specify a place in respect of which there is such a certificate, the holder of a personal licence engaged on the programme in question,

notifies the Secretary of State of the holder's death within seven days of its coming to his knowledge the licence shall, unless the Secretary of State otherwise directs, continue in force until the end of the period of twenty-eight days beginning with the date of the notification.

Annotations:

Amendments (Textual)

F1S. 5(5) substituted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 3

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Designated establishments

6 Scientific procedure establishments

(1) Subject to subsection (2) below, no place shall be specified in a project licence unless it is a place designated by a certificate issued by the Secretary of State under this section as a scientific procedure establishment.

(2) Subsection (1) above shall not apply in any case in which it appears to the Secretary of State that the programme or procedures authorised by the licence require him to specify a different place.

(3) An application for a certificate in respect of a scientific procedure establishment shall be made to the Secretary of State in such form and shall be supported by such information as he may reasonably require.

(4) A certificate shall not be issued under this section—

(a) except to a person occupying a position of authority at the establishment in question; and

(b) unless the application nominates for inclusion in the certificate pursuant to subsection (5) below a person or persons appearing to the Secretary of State to be suitable for that purpose.

(5) A certificate under this section shall specify—

(a) a person to be responsible for the day-to-day care of the protected animals kept for experimental or other scientific purposes at the establishment; and

(b) a veterinary surgeon or other suitably qualified person to provide advice on their health and welfare;

and the same person may, if the Secretary of State thinks fit, be specified under both paragraphs of this subsection.

(6) If it appears to any person specified in a certificate pursuant to subsection (5) above that the health or welfare of any such animal as is mentioned in that subsection gives rise to concern he shall—

(a) notify the person holding a personal licence who is in charge of the animal; or

(b) if there is no such person or it is not practicable to notify him, take steps to ensure that the animal is cared for and, if it is necessary for it to be killed, that it is killed by a method which is appropriate under Schedule 1 to this Act or approved by the Secretary of State.

(7) In any case to which subsection (6) above applies the person specified in the certificate pursuant to paragraph

(a) of subsection (5) above may also notify the person (if different) specified pursuant to paragraph (b) of that subsection; and the person specified pursuant to either paragraph of that subsection may also notify one of the inspectors appointed under this Act.

(8) A certificate under this section shall continue in force until revoked.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

7 Breeding and supplying establishments

(1) A person shall not at any place breed for use in regulated procedures (whether there or elsewhere) protected animals of a description specified in Schedule 2 to this Act unless that place is designated by a certificate issued by the Secretary of State under this section as a breeding establishment.

(2) A person shall not at any place keep any such protected animals which have not been bred there but are to be supplied for use elsewhere in regulated procedures unless that place is designated by a certificate issued by the Secretary of State under this section as a supplying establishment.

(3) An application for a certificate in respect of a breeding or supplying establishment shall be made to the Secretary of State in such form and shall be supported by such information as he may reasonably require.

(4) A certificate shall not be issued under this section unless the application nominates for inclusion in the certificate pursuant to subsection (5) below a person or persons appearing to the Secretary of State to be suitable for that purpose.

(5) A certificate under this section shall specify—

(a) a person to be responsible for the day-to-day care of the animals bred or kept for breeding at the establishment or, as the case may be, kept there for the purpose of being supplied for use in regulated procedures; and

(b) a veterinary surgeon or other suitably qualified person to provide advice on their health and welfare;

and the same person may, if the Secretary of State thinks fit, be specified under both paragraphs of this subsection.

(6) If it appears to any person specified in a certificate pursuant to subsection (5) above that the health or welfare of any such animal as is mentioned in that subsection gives rise to concern he shall take steps to ensure that it is cared for and, if it is necessary for it to be killed, that it is killed by a method appropriate under Schedule 1 to this Act or approved by the Secretary of State.

(7) In any case to which subsection (6) above applies the person specified in the certificate pursuant to paragraph (a) of subsection (5) above may also notify the person (if different) specified pursuant to paragraph (b) of that subsection; and the person specified pursuant to either paragraph of that subsection may also notify one of the inspectors appointed under this Act.

(8) A certificate under this section shall continue in force until revoked.

(9) Schedule 2 to this Act may be amended by orders made by the Secretary of State.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

8 Fees

The holder of a certificate issued under section 6 or 7 above shall pay such periodical fees to the Secretary of State as may be prescribed by or determined in accordance with an order made by him.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Licences and designation certificates: general provisions

9 Consultation

(1) Before granting a licence or issuing a certificate under this Act the Secretary of State shall consult one of the inspectors appointed under this Act and may also consult an independent assessor or the Animal Procedures Committee established by this Act.

(2) Where the Secretary of State proposes to consult an independent assessor he shall notify the applicant of that fact, and in selecting the assessor he shall have regard to any representations made by the applicant.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

10 Conditions

(1) Subject to the provisions of this section, a licence or certificate under this Act may contain such conditions as the Secretary of State thinks fit.

(2) The conditions of a personal licence shall include—

(a) a condition to the effect that the holder shall take precautions to prevent or reduce to the minimum consistent with the purposes of the authorised procedures any pain, distress or discomfort to the animals to which those procedures may be applied; and

(b) an inviolable termination condition, that is to say, a condition specifying circumstances in which a protected animal which is being or has been subjected to a regulated procedure must in every case be immediately killed by a method appropriate to the animal under Schedule 1 to this Act or by such other method as may be authorised by the licence.

[F1(2A)] Without prejudice to subsection (2)(a) above, the conditions of a personal licence shall include such conditions as the Secretary of State considers appropriate to ensure that the authorised procedures are carried out in accordance with Article 8 of Council Directive No.86/609/EEC^{F2}, the text of which is set out in Schedule 2A to this Act.]

(3) The conditions of a project licence shall, unless the Secretary of State considers that an exception is justified, include a condition to the effect—

(a) that no cat or dog shall be used under the licence unless it has been bred and obtained from a designated breeding establishment; and

(b)that no other protected animal of a description specified in Schedule 2 to this Act shall be used under the licence unless it has been bred at a designated breeding establishment or obtained from a designated supplying establishment; [F3; and

(c)that no vertebrate of an endangered species shall be used under the licence;]

[F4and

(d)that no protected animal taken from the wild shall be used under the licence;]

but no exception shall be made from the condition required by paragraph (a) [F5or (d)] above unless the Secretary of State is satisfied that no animal suitable for the purpose of the programme specified in the licence can be obtained in accordance with that condition [F6and no exception shall be made from the condition required by paragraph (c) above unless the Secretary of State is satisfied that the use of animals of the species in question will be in conformity with the Council Regulation and that the purposes of the programme of work specified in the licence are either research aimed at the preservation of the species in question or essential bio-medical purposes where the species in question exceptionally proves to be the only one suitable for those purposes]

[F7(3A)In subsection (3) above—

“endangered species” means a species listed in Appendix 1 of the Convention on International Trade in Endangered Species of Fauna and Flora (which is set out in Annex A to the Council Regulation) or in Annex C.1 to the Council Regulation; and

“essential bio-medical purposes” has the same meaning as in Council Directive No.86/609/EECF8, and in subsection (3) above and this subsection “the Council Regulation” means Council Regulation (EEC) No. 3626/82F9 as amended by Commission Regulation (EEC) No. 869/88F10 and Commission Regulation (EEC) No. 1970/92F11.]

[F12(3B)Where a project licence authorises the setting free of a protected animal in the course of a series of regulated procedures, that licence shall include a condition requiring the prior consent of the Secretary of State to the setting free of the animal.

(3C)The Secretary of State shall not give his consent to the setting free of an animal in pursuance of a condition included in a project licence under subsection (3B) above unless he is satisfied—

(a)that the maximum possible care has been taken to safeguard the animal's well-being;

(b)that the animal's state of health allows it to be set free; and

(c)that the setting free of the animal poses no danger to public health or the environment.

(3D)The conditions of a project licence shall include such conditions as the Secretary of State considers appropriate to ensure—

(a)that where a protected animal has been subjected to a series of regulated procedures for a particular purpose, at the conclusion of the series a veterinary surgeon or, if none is available, another suitably qualified person determines whether the animal should be killed or kept alive;

(b)that, if that person considers that it is likely to remain in lasting pain or distress, the animal is killed by a method appropriate to the animal under Schedule 1 to this Act, or by such other method as may be authorised by the personal licence of the person by whom the animal is killed; and

(c)that where the animal is to be kept alive, it is kept at a designated establishment (subject to subsection (6D) below).]

(4)If the conditions of a personal licence permit the holder to use assistants to perform, under his direction, tasks not requiring technical knowledge nothing done by an assistant in accordance with such a condition shall constitute a contravention of section 3 above.

(5)The conditions of a certificate issued under section 6 above shall include a condition prohibiting the killing otherwise than by a method which is appropriate under Schedule 1 to this Act or approved by the Secretary of State of any protected animal kept at the establishment for experimental or other scientific purposes but not subjected to a regulated procedure or required to be killed by virtue of section 15 below; and the conditions of a certificate issued under section 7 above shall include a condition prohibiting the killing otherwise than by such a method of an animal of a description specified in Schedule 2 to this Act which is bred or kept for breeding or, as the case may be, kept at the establishment for the purposes of being supplied for use in regulated procedures but not used, or supplied for use, for that purpose.

[F13(5A)The conditions of a certificate issued under section 6 above shall include such conditions as the Secretary of State considers appropriate to ensure—

(a)that sufficient trained staff are provided at the establishment; and

(b)that the persons who take care of protected animals at the establishment and those who supervise such persons have appropriate education and training.]

(6)The conditions of a certificate issued under section 6 or 7 above shall include conditions requiring the holder of the certificate—

(a)to secure that a person competent to kill animals in the manner specified by conditions imposed in accordance with subsection (5) above will be available to do so; and

(b)to keep records as respects the source and disposal of and otherwise relating to the animals kept at the establishment for experimental or other scientific purposes or, as the case may be, bred or kept for breeding there or kept there for the purposes of being supplied for use in regulated procedures.

[F14(6A)The conditions of a certificate issued under section 6 or 7 above shall, if the certificate permits dogs, cats or primates to be kept or bred at the establishment in question, include conditions requiring the holder of the certificate to ensure—

(a)that particulars of the identity and origin of each dog, cat or primate kept or bred at the establishment are entered in the records referred to in subsection (6)(b) above;

(b)that before it is weaned, every dog, cat or primate in the establishment not falling within paragraph (c) below is provided with an individual identification mark in the least painful manner possible;

(c)that where a dog, cat or primate is transferred from one establishment to another before it is weaned and it is not practicable to mark it beforehand, the records kept by the establishment receiving the animal identify that animal's mother until the animal is provided with an individual identification mark; and

(d)that any unmarked dog, cat or primate which is taken into the establishment after being weaned is provided as soon as possible thereafter with an individual identification mark.

(6B)The conditions of a certificate issued under section 6 or 7 above shall include such conditions relating to the general care and accommodation of protected animals bred, kept or used at the establishment as the Secretary of State considers appropriate in order to ensure—

(a)that the environment, housing, freedom of movement, food, water and care provided for each such animal are appropriate for the animal's health and well-being;

(b)that any restrictions on the extent to which each such animal can satisfy its physiological and ethological needs are kept to the absolute minimum;

(c)that the environmental conditions in which such animals are bred, kept or used are checked daily;

(d)that the well-being and state of health of such animals are monitored by a suitably qualified person in order to prevent pain or avoidable suffering, distress or lasting harm; and

(e)that arrangements are made to ensure that any defect or suffering discovered is eliminated as quickly as possible.

(6C)When considering what conditions are appropriate to ensure the matters specified in subsection (6B)(a) and (b) above, the Secretary of State shall have regard to the guidance in Annex II to Council Directive No.86/609/EEC.

(6D)The conditions of a certificate issued under section 6 or 7 above shall include such conditions as the Secretary of State considers appropriate to ensure that any animal kept alive after being subjected to a series of regulated procedures will continue to be kept at the establishment under the supervision of a veterinary surgeon or other suitably qualified person unless it is moved to another designated establishment or a veterinary surgeon certifies that it will not suffer if it ceases to be kept at a designated establishment.]

(7)Breach of a condition in a licence or certificate shall not invalidate the licence or certificate but shall be a ground for its variation or revocation.

Annotations:

Amendments (Textual)

F1S. 10(2A) inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 4(2)

F2OJ No. L358, 18.12.86, p.1.

F3S. 10(3)(c) and word 'and' preceding it inserted (1.10.1993) by S.I. 1993/2102, reg. 2(2)(a)

F4S. 10(3)(d) and word preceding it inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 4(3)(a)

F5Words in s. 10(3) inserted (5.9.1998) by S.I. 1998/1974, reg. 2, sch. para. 4(3)(b)

F6 Words in s. 10(3) added (1.10.1993) by S.I. 1993/2102, reg. 2(2)(b)

F7 S. 10(3A) inserted (1.10.1993) by S.I. 1993/2102, reg. 2(3)

F8 OJ No. L358, 18.12.86, p.1.

F9 OJ No. L384, 31.12.82, p.1.

F10 OJ No. L087, 31.3.88, p.67.

F11 OJ No. L201, 20.7.92, p.1.

F12 S. 10(3B)-(3D) inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 4(4)

F13 S. 10(5A) inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 4(5)

F14 S. 10(6A)-(6D) inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 4(6)

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

11 Variation and revocation

A licence or certificate under this Act may be varied or revoked by the Secretary of State—

- (a) on the ground mentioned in section 10(7) above;
- (b) in any other case in which it appears to the Secretary of State appropriate to do so; or
- (c) at the request of the holder.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

12 Right to make representations

(1) Where the Secretary of State proposes—

- (a) to refuse a licence or certificate under this Act; or
 - (b) to vary or revoke such a licence or certificate otherwise than at the request of the holder,
- he shall serve on the applicant or the holder a notice of his intention to do so.

(2) The notice shall state the reasons for which the Secretary of State proposes to act and give particulars of the rights conferred by subsection (3) below.

(3) A person on whom a notice is served under subsection (1) above may make written representations and, if desired, oral representations to a person appointed for that purpose by the Secretary of State if before such date as is specified in the notice (not being less than twenty-eight days after the date of service) he notifies the Secretary of State of his wish to do so.

(4) The holder of a licence or certificate who is dissatisfied with any condition contained in it may, if he notifies the Secretary of State of his wish to do so, make written representations and, if desired, oral representations to a person appointed for that purpose by the Secretary of State; but the making of such representations shall not affect the operation of any condition unless and until it is varied under section 11 above.

(5) The person appointed to receive any representations under this section shall be a person who holds or has held judicial office in the United Kingdom or

[F1(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 7 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing.]

and the Secretary of State may, if he thinks fit, appoint a person with scientific or other appropriate qualifications to assist the person receiving the representations in his consideration of them.

(6)The person appointed to receive any such representations shall after considering them make a report to the Secretary of State; and the Secretary of State shall furnish a copy of the report to the person who made the representations and take it into account in deciding whether to refuse the application or to vary or revoke the licence or certificate, as the case may be.

(7)The Secretary of State may by order make rules with respect to the procedure to be followed in the making and consideration of representations under this section, including provision requiring any such representations to be made within a specified time.

(8)A notice under subsection (1) above may be served either personally or by post.

Annotations:

Amendments (Textual)

F1S. 2(5)(a)(b)(c) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2)(5), Sch. 10 para. 66

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

13 Suspension in cases of urgency

(1)If it appears to the Secretary of State to be urgently necessary for the welfare of any protected animals that a licence or certificate under this Act should cease to have effect forthwith he shall by notice served on the holder suspend its operation for a period not exceeding three months.

(2)If during that period a notice of proposed variation or revocation of the licence or certificate is served under section 12 above but at the end of that period—

(a)the time for notifying the Secretary of State under subsection (3) of that section has not expired; or

(b)representations are to be or are being made in accordance with that subsection; or

(c)such representations have been made but the Secretary of State has not received or has not completed his consideration of the report of the person to whom the representations were made,

he may by notice served on the holder further suspend the licence or certificate until he is able to decide whether to vary or revoke it but no further suspension shall be for longer than three months at a time.

(3)A notice under this section may be served personally or by post.

Annotations:

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Additional controls

[F114 Re-use of protected animals

(1)Where—

(a)a protected animal has been subjected to a series of regulated procedures for a particular purpose; and

(b)any of those procedures has caused severe pain or distress to that animal,

that animal shall not be used for any further regulated procedures which will entail severe pain or distress.

(2)Where a protected animal has been subjected to a series of regulated procedures for a particular purpose and has been given a general anaesthetic for any of those procedures and been allowed to recover consciousness, that animal shall not be used for any further regulated procedures unless the Secretary of State has given his consent to such further use and—

(a)the procedure, or each procedure, for which the anaesthetic was given consisted only of surgical preparation essential for a subsequent procedure; or

(b)the anaesthetic was administered solely to immobilise the animal; or

(c)the animal will be under general anaesthesia throughout the further procedures and will not be allowed to recover consciousness.

(3) Without prejudice to subsections (1) and (2) above, where a protected animal has been subjected to a series of regulated procedures for a particular purpose it shall not be used for any further regulated procedures except with the consent of the Secretary of State.

(4) Any consent for the purposes of this section may relate to a specified animal or to animals used in specified procedures or specified circumstances.]

Annotations:

Amendments (Textual)

F1S. 14 substituted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 5

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

15 Killing animals at conclusion of regulated procedures

(1) Where a protected animal—

(a) has been subjected to a series of regulated procedures for a particular purpose; and

(b) at the conclusion of the series is suffering or likely to suffer adverse effects,

the person who applied those procedures, or the last of them, shall cause the animal to be immediately killed by a method appropriate to the animal under Schedule 1 to this Act or by such other method as may be authorised by the personal licence of the person by whom the animal is killed.

(2) Subsection (1) above is without prejudice to any condition of a project licence requiring an animal to be killed at the conclusion of a regulated procedure in circumstances other than those mentioned in that subsection.

16 Prohibition of public displays

(1) No person shall carry out any regulated procedure as an exhibition to the general public or carry out any such procedure which is shown live on television for general reception.

(2) No person shall publish a notice or advertisement announcing the carrying out of any regulated procedure in a manner that would contravene subsection (1) above.

17 Neuro-muscular blocking agents

No person shall in the course of a regulated procedure—

(a) use any neuromuscular blocking agent unless expressly authorised to do so by the personal and project licences under which the procedure is carried out; or

(b) use any such agent instead of an anaesthetic.

The inspectorate and the committee

18 Inspectors

(1) The Secretary of State shall, with the consent of the Treasury as to numbers and remuneration, appoint as inspectors for the purposes of this Act persons having such medical or veterinary qualifications as he thinks requisite.

(2) It shall be the duty of an inspector—

(a) to advise the Secretary of State on applications for personal and project licences, on requests for their variation or revocation and on their periodical review;

(b) to advise him on applications for certificates under this Act and on requests for their variation or revocation;

(c) to visit places where regulated procedures are carried out for the purpose of determining whether those procedures are authorised by the requisite licences and whether the conditions of those licences are being complied with;

(d) to visit designated establishments for the purpose of determining whether the conditions of the certificates in respect of those establishments are being complied with;

(e) to report to the Secretary of State any case in which any provision of this Act or any condition of a licence or certificate under this Act has not been or is not being complied with and to advise him on the action to be taken in any such case.

(3) If an inspector considers that a protected animal is undergoing excessive suffering he may require it to be immediately killed by a method appropriate to the animal under Schedule 1 to this Act or by such other method as may be authorised by any personal licence held by the person to whom the requirement is addressed.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

19 The Animal Procedures Committee

(1) There shall be a committee to be known as the Animal Procedures Committee.

(2) The Committee shall consist of a chairman and at least twelve other members appointed by the Secretary of State.

(3) Of the members other than the chairman—

(a) at least two-thirds shall be persons having such a qualification as is mentioned in subsection (4) below; and

(b) at least one shall be a barrister, solicitor or advocate,

but so that at least half of those members are persons who neither hold nor within the previous six years have held any licence under this Act or under the **M1** Cruelty to Animals Act 1876; and in making appointments to the Committee the Secretary of State shall have regard to the desirability of ensuring that the interests of animal welfare are adequately represented.

(4) The qualifications referred to in subsection (3)(a) above are full registration as a medical practitioner, registration as a veterinary surgeon or qualifications or experience in a biological subject approved by the Secretary of State as relevant to the work of the Committee.

(5) Members of the Committee shall be appointed for such periods as the Secretary of State may determine but no such period shall exceed four years and no person shall be reappointed more than once.

(6) Any member may resign by notice in writing to the Secretary of State; and the chairman may by such a notice resign his office as such.

(7) The Secretary of State may terminate the appointment of a member if he is satisfied that—

(a) for a period of six months beginning not more than nine months previously he has, without the consent of the other members, failed to attend the meetings of the Committee;

(b) he is an undischarged bankrupt or has made an arrangement with his creditors;

(c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties; or

(d) he has been convicted of such a criminal offence, or his conduct has been such, that it is not in the Secretary of State's opinion fitting that he should remain a member.

(8) The Secretary of State may make payments to the chairman by way of remuneration and make payments to him and the other members in respect of expenses incurred by them in the performance of their duties.

(9) The Secretary of State may also defray any other expenses of the Committee.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Marginal Citations

M1 1876 c. 77.

20 Functions of the Committee

(1) It shall be the duty of the Animal Procedures Committee to advise the Secretary of State on such matters concerned with this Act and his functions under it as the Committee may determine or as may be referred to the Committee by the Secretary of State.

(2) In its consideration of any matter the Committee shall have regard both to the legitimate requirements of science and industry and to the protection of animals against avoidable suffering and unnecessary use in scientific procedures.

(3) The Committee may perform any of its functions by means of sub-committees and may co-opt as members of any sub-committee any persons considered by the Committee to be able to assist that sub-committee in its work.

(4) The Committee may promote research relevant to its functions and may obtain advice or assistance from other persons with knowledge or experience appearing to the Committee to be relevant to those functions.

(5) The Committee shall in each year make a report on its activities to the Secretary of State who shall lay copies of the report before Parliament.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Miscellaneous and supplementary

21 Guidance, codes of practice and statistics

(1) The Secretary of State shall publish information to serve as guidance with respect to the manner in which he proposes to exercise his power to grant licences and certificates under this Act and with respect to the conditions which he proposes to include in such licences and certificates.

(2) The Secretary of State shall issue codes of practice as to the care of protected animals and their use for regulated procedures and may approve such codes issued by other persons.

(3) The Secretary of State shall consult the Animal Procedures Committee before publishing or altering any information under subsection (1) above or issuing, approving, altering or approving any alteration in any code issued or approved under subsection (2) above.

(4) A failure on the part of any person to comply with any provision of a code issued or approved under subsection (2) above shall not of itself render that person liable to criminal or civil proceedings but—

(a) any such code shall be admissible in evidence in any such proceedings; and

(b) if any of its provisions appears to the court conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(5) The Secretary of State shall lay before Parliament—

(a) copies of any information published or code issued by him under subsection (1) or (2) above and of any alteration made by him in any such information or code; and

(b) copies of any code approved by him under subsection (2) above and of any alteration approved by him in any such code;

and if either House of Parliament passes a resolution requiring the information, code or alteration mentioned in paragraph (a) above, or the approval mentioned in paragraph (b) above, to be withdrawn the Secretary of State shall withdraw it accordingly; and where he withdraws information published or a code issued by him or his approval of a code he shall publish information or issue or approve a code, as the case may be, in substitution for the information or code previously published, issued or approved.

(6) No resolution shall be passed by either House under subsection (5) above in respect of any information, code or alteration after the end of the period of forty days beginning with the day on which a copy of the information, code or alteration was laid before that House; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(7) The Secretary of State shall in each year publish and lay before Parliament such information as he considers appropriate with respect to the use of protected animals in the previous year for experimental or other scientific purposes.

Annotations:

Extent Information

E1 In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

22 Penalties for contraventions

(1) Any person who contravenes section 3 above shall be guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person who, being the holder of a project licence—

(a) procures or knowingly permits a person under his control to carry out a regulated procedure otherwise than as part of the programme specified in the licence; or

(b) procures or knowingly permits a person under his control to carry out a regulated procedure otherwise than in accordance with that person's personal licence,

shall be guilty of an offence and liable to the penalties specified in subsection (1) above.

(3) Any person who—

(a) contravenes section 7(1) or (2), 14, 15, 16, or 17 above; or

(b) fails to comply with a requirement imposed on him under section 18(3) above,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the fourth level on the standard scale or to both.

(4) A person shall not be guilty of an offence under section 3 or 17(a) above by reason only that he acted without the authority of a project licence if he shows that he reasonably believed, after making due enquiry, that he had such authority.

(5) A person guilty of an offence under section 1 of the [M1](#) Protection of Animals Act 1911 or section 1 of the [M2](#) Protection of Animals (Scotland) Act 1912 in respect of an animal at a designated establishment shall be liable to the penalties specified in subsection (1) above.

Annotations:

Extent Information

[E1](#) In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Marginal Citations

[M1](#) 1911 c. 27.

[M2](#) 1912 c. 14.

23 False statements

(1) A person is guilty of an offence if for the purpose of obtaining or assisting another person to obtain a licence or certificate under this Act he furnishes information which he knows to be false or misleading in a material particular or recklessly furnishes information which is false or misleading in a material particular.

(2) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the fourth level on the standard scale or to both.

24 Protection of confidential information

(1) A person is guilty of an offence if otherwise than for the purpose of discharging his functions under this Act he discloses any information which has been obtained by him in the exercise of those functions and which he knows or has reasonable grounds for believing to have been given in confidence.

(2) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

25 Powers of entry

(1) If a justice of the peace or in Scotland a sheriff is satisfied by information on oath that there are reasonable grounds for believing that an offence under this Act has been or is being committed at any place, he may issue a

warrant authorising a constable to enter that place if need be by such force as is reasonably necessary, to search it and to require any person found there to give his name and address.

(2) A warrant under this section may authorise a constable to be accompanied by an inspector appointed under this Act and shall require him to be accompanied by such an inspector if the place in question is a designated establishment.

(3) Any person who—

(a) intentionally obstructs a constable or inspector in the exercise of his powers under this section; or

(b) refuses on demand to give his name and address or gives a false name or address,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the fourth level on the standard scale or to both.

26 Prosecutions

(1) No proceedings for—

(a) an offence under this Act; or

(b) an offence under section 1 of the [M1](#) Protection of Animals Act 1911 which is alleged to have been committed in respect of an animal at a designated establishment, shall be brought in England and Wales except by or with the consent of the Director of Public Prosecutions.

(2) Summary proceedings for an offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against any person at any place at which he is for the time being.

(3) Notwithstanding anything in section 127(1) of the [M2](#) Magistrates' Courts Act 1980, an information relating to an offence under this Act which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within three years after the commission of the offence and within six months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions to justify the proceedings comes to his knowledge.

(4) Notwithstanding anything in [[F1](#)section 136 of the Criminal Procedure (Scotland) Act 1995], summary proceedings for an offence under this Act may be commenced in Scotland at any time within three years after the commission of the offence and within six months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge; and subsection (3) of that section shall apply for the purposes of this subsection as it applies for the purposes of that section.

(5) For the purposes of subsections (3) and (4) above a certificate of the Director of Public Prosecutions or, as the case may be, the Lord Advocate as to the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact.

Annotations:

Amendments (Textual)

[F1](#) Words in s. 26(4) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 59

Marginal Citations

[M1](#) 1911 c. 27.

[M2](#) 1980 c. 43

27 Repeal, consequential amendments and transitional provisions

(1) The [M1](#) Cruelty to Animals Act 1876 is hereby repealed.

(2) The enactments mentioned in Schedule 3 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Act.

(3) The [M2](#) Breeding of Dogs Act 1973 shall not apply to the breeding of dogs for use in regulated procedures if they are bred at a designated breeding establishment.

(4) Schedule 4 to this Act shall have effect with respect to the transitional matters there mentioned.

(5) The Secretary of State may by order make such further transitional provisions as he considers necessary or expedient.

Annotations:

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

Marginal Citations

M11876 c. 77.

M21973 c. 60.

28 Orders

(1)Any power of the Secretary of State to make an order under this Act shall be exercisable by statutory instrument.

(2)A statutory instrument containing an order under any of the foregoing provisions of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

29 Application to Northern Ireland

(1)This Act applies to Northern Ireland with the following modifications.

(2)For any reference to the Secretary of State in any provision of this Act except sections 19 and 20(1) there shall be substituted a reference to the Department of Health and Social Services for Northern Ireland; and for the reference in section 18(1) above to the Treasury there shall be substituted a reference to the Department of Finance and Personnel for Northern Ireland.

(3)The functions of the Secretary of State under sections 19 and 20(1) shall be exercisable by him jointly with the Department of Health and Social Services for Northern Ireland; and any notice under section 19(6) or advice under section 20(1) may be given to either of them.

(4)In section 20(5) above for the reference to Parliament there shall be substituted a reference to the Northern Ireland Assembly; and in section 21 above—

(a)for the references to Parliament or either House of Parliament there shall be substituted references to the Assembly;

(b)in subsection (5) after the word “if” there shall be inserted the words “within the statutory period (within the meaning of the Interpretation Act (Northern Ireland) 1954)”; and

(c)subsection (6) shall be omitted.

(5)In sections 22(5) and 26(1)(b) above for the references to section 1 of the Protection of Animals Act 1911 there shall be substituted references to sections 13 and 14 of the **M1**Welfare of Animals Act (Northern Ireland) 1972.

(6)In section 25(1) above for the reference to information on oath there shall be substituted a reference to a complaint on oath.

(7)In section 26 above—

(a)in subsections (1) and (3) for the words “England and Wales” there shall be substituted the words “Northern Ireland”;

(b)in subsections (1), (3) and (5) for the references to the Director of Public Prosecutions there shall be substituted references to the Director of Public Prosecutions for Northern Ireland; and

(c)in subsection (3) for the reference to section 127(1) of the Magistrates’ Courts Act 1980 there shall be substituted a reference to Article 19(1) of the **M2**Magistrates’ Courts (Northern Ireland) Order 1981.

(8)In section 27(3) above for the reference to the Breeding of Dogs Act 1973 there shall be substituted a reference to Articles 12, 13 and 43 of the **M3**Dogs (Northern Ireland) Order 1983.

(9)Section 28 above shall not apply and any order made by the Department of Health and Social Services for Northern Ireland under this Act shall be a statutory rule for the purposes of the **M4**Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the **M5**Interpretation Act (Northern Ireland) 1954.

Annotations:

Extent Information

E1S. 29 extends to Northern Ireland but the operation of s. 29 is limited by application as mentioned in s. 29(2)

Marginal Citations

M11972 c. 7. (N.I.).

M2S.I. 1981/1675 (N.I.26).

M3S.I. 1983/1764 (N.I.8).

M4S.I. 1979/1573 (N.I.12).

M51954 c. 33 (N.I.)

30 Short title, interpretation and commencement

(1)This Act may be cited as the Animals (Scientific Procedures) Act 1986.

(2)In this Act—

“designated”, in relation to an establishment, means designated by a certificate under section 6 or 7 above;

“personal licence” means a licence granted under section 4 above;

“place” includes any place within the seaward limits of the territorial waters of the United Kingdom, including any vessel other than a ship which is not a British ship;

“project licence” means a licence granted under section 5 above;

“protected animal” has the meaning given in section 1 above but subject to any order under subsection (3) of that section;

“regulated procedure” has the meaning given in section 2 above.

(3)This Act shall come into force on such date as the Secretary of State may by order appoint; and different dates may be appointed for different provisions or different purposes.

Annotations:

Modifications etc. (not altering text)

C1The power of appointment conferred by s. 30(3) fully exercised: S.R. 1986/364, S.I. 1986/2088, S.R. 1989/496, S.I. 1989/2306

Extent Information

E1In its application to Northern Ireland, this section has effect subject to the modifications set out in s. 29, see s. 29(1)

SCHEDULES

Sections 2, 6, 7, 10, 15(1) and 18(3)

F1SCHEDULE 1 APPROPRIATE METHODS OF HUMANE KILLING

Annotations:

Amendments (Textual)

F1Sch. 1 substituted (E.W.S.) (1.3.1997) and (N.I.) (9.6.1997) by S.I. 1996/3278, art. 2, Sch.; S.R. 1997/226, art. 2, Sch.

F11Subject to paragraph 2 below, the methods of humane killing listed in Tables A and B below are appropriate for the animals listed in the corresponding entries in those tables only if the process of killing is completed by one of the methods listed in sub-paragraphs (a) to (f) below:

(a)confirmation of permanent cessation of the circulation

(b)destruction of the brain

(c)dislocation of the neck

(d)exsanguination

(e)confirming the onset of rigor mortis

(f)instantaneous destruction of the body in a macerator.

Annotations:

Amendments (Textual)

F1Sch. 1 para. 1: Sch. 1 substituted (E.W.S.) (1.3.1997) by S.I. 1996/3278, art. 2, Sch.

Extent Information

E1This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only.

F1Subject to paragraph 2 below, the methods of humane killing listed in Tables A and B below are appropriate for the animals listed in the corresponding entries in those tables only if the process of killing is completed by one of the methods listed in sub-paragraphs (a) to (f):

- (a)confirmation of permanent cessation of the circulation
- (b)destruction of the brain
- (c)dislocation of the neck
- (d)exsanguination
- (e)confirming the onset of rigor mortis
- (f)instantaneous destruction of the body in a macerator.

Annotations:

Amendments (Textual)

F1Sch. 1 para. 1: Sch. 1 substituted (N.I.) (9.6.1997) by S.R. 1997/226, art. 2, Sch.

Extent Information

E1This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only.

F12Paragraph 1 above does not apply in those cases where Table A specifies one of the methods listed in that paragraph as an appropriate method of humane killing.

Annotations:

Amendments (Textual)

F1Sch. 1 para. 2: Sch. 1 substituted (E.W.S.) (1.3.1997) and (N.I.) (9.6.1997) by S.I. 1996/3278, art. 2, Sch.; S.R. 1997/226, art. 2, Sch.

F1

[[A. Methods for animals other than foetal, larval and embryonic forms	Animals for which appropriate
1.Overdose of an anaesthetic using a route and an anaesthetic agent appropriate for the size and species of animal.	All animals
2.Exposure to carbon dioxide gas in a rising concentration.	Rodents, Rabbits and Birds up to 1.5 kg
3.Dislocation of the neck.	Rodents up to 500g Rabbits up to 1 kg Birds up to 3 kg
4.Concussion of the brain by striking the cranium.	Rodents and Rabbits up to 1 kg Birds up to 250g Amphibians and reptiles (with destruction of the brain before the return of consciousness) up to 1 kg Fishes (with destruction of the brain before the return of consciousness)
5. One of the recognised methods of slaughter set out below which is appropriate to the animal and is performed by a registered veterinary surgeon, or, in the case of the methods described in paragraph (ii) below, performed by the holder of a current licence granted under the F2Welfare of Animals (Slaughter or Killing) Regulations 1995.	Ungulates]

(i)Destruction of the brain by free bullet, or	
(ii)captive bolt, percussion or electrical stunning followed by destruction of the brain or exsanguination before return of consciousness.	

Annotations:

Amendments (Textual)

F1Sch. 1 Table A: Sch. 1 substituted (E.W.S.) (1.3.1997) by S.I. 1996/3278, art. 2, Sch.

F2S.I. 1995/731.

Extent Information

E1This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only.

F1

[A. Methods for animals other than foetal, larval and embryonic forms	Animals for which appropriate
1.Overdose of an anaesthetic using a route and an anaesthetic agent appropriate for the size and species of animal.	All animals
2.Exposure to carbon dioxide gas in a rising concentration.	Rodents, Rabbits and Birds up to 1.5 kg
3.Dislocation of the neck.	Rodents up to 500g Rabbits up to 1 kg Birds up to 3 kg
4.Concussion of the brain by striking the cranium.	Rodents and Rabbits up to 1 kg Birds up to 250g Amphibians and reptiles (with destruction of the brain before the return of consciousness) up to 1 kg Fishes (with destruction of the brain before the return of consciousness)
5. One of the recognised methods of slaughter set out below which is appropriate to the animal and is performed by a registered veterinary surgeon, or, in the case of the methods described in paragraph (ii) below, performed by the holder of a current licence granted under the F2Welfare of Animals (Slaughter or Killing) Regulations (Northern Ireland) 1996. (i)Destruction of the brain by free bullet, or (ii)captive bolt, percussion or electrical stunning followed by destruction of the brain or exsanguination before return of consciousness.	UngulatesF3]

Annotations:

Amendments (Textual)

F1Sch. 1 Table A: Sch. 1 substituted (N.I.) (9.6.1997) by S.R. 1997/226, art. 2, Sch.

F2S.R. 1996/558.

F3Sch. 1 Table B: Sch. 1 substituted (E.W.S.) (1.3.1997) and (N.I.) (9.6.1997) by S.I. 1996/3278, art. 2, Sch.; S.R. 1997/226, art. 2, Sch.

Extent Information

E1This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only.

B. Methods for foetal, larval and embryonic forms	Animals for which appropriate
1.Overdose of an anaesthetic using a route and anaesthetic agent appropriate for the size, stage of development and species of animal.	All animals
2.Refrigeration, or disruption of membranes, or maceration in apparatus approved under appropriate slaughter legislation, or exposure to carbon dioxide in near 100% concentration until they are dead.	Birds Reptiles
3.Cooling of foetuses followed by immersion in cold tissue fixative.	Mice, Rats and Rabbits
4.Decapitation.	Mammals and Birds up to 50g.]

SCHEDULE 2 ANIMALS TO BE OBTAINED ONLY FROM DESIGNATED BREEDING OR SUPPLYING ESTABLISHMENTS

Mouse

Rat

Guinea-pig

Hamster

Rabbit

Dog

Cat

Primate

[F1Any bird of the species *Coturnix coturnix* (quail).]

[F2 Pig, if genetically modified

Sheep, if genetically modified

Ferret

Gerbil]

Annotations:

Amendments (Textual)

F1Words in Sch. 2 added (1.10.1993) by S.I. 1993/2103, art. 4; (and for N.I. (15.11.1993) by S.R. 1993/407, art. 2(2)

F2Words in Sch. 2 inserted (1.1.1999) by S.R. 1998/331, reg. 2; (and for N.I. (1.1.1999) by S.R. 1998/331, art. 2)

Section 10(2A).

[F1SCHEDULE 2A ARTICLE 8 OF COUNCIL DIRECTIVE No. 86/609/EEC

Annotations:

Amendments (Textual)

F1Sch. 2A inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 6

F11All experiments shall be carried out under general or local anaesthesia.

Annotations:

Amendments (Textual)

F1Sch. 2A para. 1 inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. para. 6

F12Paragraph 1 above does not apply when:

(a) anaesthesia is judged to be more traumatic to the animal than the experiment itself;

(b) anaesthesia is incompatible with the object of the experiment. In such cases appropriate legislative and/or administrative measures shall be taken to ensure that no such experiment is carried out unnecessarily.

Annotations:

Amendments (Textual)

F1Sch. 2A para. 2 inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. 6 para. 6

F13If anaesthesia is not possible, analgesics or other appropriate methods should be used in order to ensure as far as possible that pain, suffering, distress or harm are limited and that in any event the animal is not subject to severe pain, distress or suffering.

Annotations:

Amendments (Textual)

F1Sch. 2A para. 3 inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. 6 para. 6

F14Provided such action is compatible with the object of the experiment, an anaesthetised animal, which suffers considerable pain once anaesthesia has worn off, shall be treated in good time with pain-relieving means or, if this is not possible, shall be immediately killed by a humane method.]

Annotations:

Amendments (Textual)

F1Sch. 2A para. 4 inserted (5.9.1998) by S.I. 1998/1974, reg. 2, Sch. 6 para. 6

Section 27(2).

SCHEDULE 3 CONSEQUENTIAL AMENDMENTS

1In section 1(3) of the **M1**Protection of Animals Act 1911 for the words “the Cruelty to Animals Act 1876” there shall be substituted the words “the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M11911 c. 27.

2In section 1(3) of the **M1**Protection of Animals (Scotland) Act 1912 for the words “the Cruelty to Animals Act 1876” there shall be substituted the words “the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M11912 c. 14.

3In paragraph 1 of Schedule 1 to the **M1**Protection of Animals (Anaesthetics) Act 1954 for the words “Any experiment duly authorised under the Cruelty to Animals Act 1876” there shall be substituted the words “Any procedure duly authorised under the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M11954 c. 46.

4In section 12 of the **M1**Pests Act 1954 for the words “any experiment duly authorised under the Cruelty to Animals Act 1876” there shall be substituted the words “any procedure duly authorised under the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M11954 c. 68.

5In section 19(4)(a) of the **M1**Veterinary Surgeons Act 1966 for the words “any experiment duly authorised under the Cruelty to Animals Act 1876” there shall be substituted the words “any procedure duly authorised under the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M1 1966 c. 36.

6In section 1(2A)(b) of the **M1**Slaughter of Poultry Act 1967 for the words “an experiment in respect of which restrictions are imposed by the Cruelty to Animals Act 1876, being an experiment performed subject to any restrictions so imposed” there shall be substituted the words “a procedure duly authorised under the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M1 1967 c. 24.

7In section 1(2) of the **M1**Agriculture (Miscellaneous Provisions) Act 1968 for the words “the Cruelty to Animals Act 1876” there shall be substituted the words “the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M1 1968 c. 34.

8In sections 1(2) and 15(a) of, and paragraph 1 of Schedule 1 to, the **M1**Welfare of Animals Act (Northern Ireland) 1972 for the words “the Cruelty to Animals Act 1876” there shall be substituted the words “the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M1 1972 c. 7 (N.I.).

F19.

Annotations:

Amendments (Textual)

F1Sch. 3 para. 9 repealed (E.W.S.) (16.10.1992) by Protection of Badgers Act 1992 (c.51), s. 15(2)(3), Sch.

10In section 5(4) of the **M1**Dangerous Wild Animals Act 1976 for the words “registered pursuant to the Cruelty to Animals Act 1876 for the purpose of performing experiments” there shall be substituted the words “which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986”.

Annotations:

Marginal Citations

M1 1976 c. 38.

SCHEDULE 4 TRANSITIONAL PROVISIONS

Annotations:

Extent Information

E1In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in s. 29, see s. 29(1)

Existing licences

1Any licence which immediately before the coming into force of section 3 of this Act is in force under the Cruelty to Animals Act 1876 (in this Schedule referred to as “the previous Act”) shall until such date as it would have expired under that Act be treated for the purposes of this Act as if it were a personal licence.

Current experiments

2(1) Subject to sub-paragraph (2) below, any experiment or series of experiments which is lawfully in progress under the previous Act immediately before the coming into force of section 3 of this Act shall be treated for the purposes of this Act as authorised by a project licence.

(2) The Secretary of State may direct that sub-paragraph (1) above shall cease to have effect on such date as he may specify; and different dates may be specified in relation to different cases.

Existing certificates

3 A person shall not by virtue of paragraphs 1 or 2 above be entitled to do anything which would have been unlawful under the previous Act without such a certificate as is mentioned in paragraph (2) or (3) of the proviso to section 3 of that Act or in section 5 of that Act unless immediately before the coming into force of section 3 of this Act he holds the appropriate certificate under that Act.

Registered premises

4 Until such date as the Secretary of State may direct there shall be treated as a designated scientific procedure establishment for the purposes of this Act any place registered under the previous Act or approved by the Secretary of State.

Inspectors

5 Any person who at the coming into force of section 18 of this Act holds office as an inspector under the previous Act shall be treated for the purposes of this Act as an inspector appointed under that section.



Wild Mammals (Protection) Act 1996

1996 CHAPTER 3

An Act to make provision for the protection of wild mammals from certain cruel acts; and for connected purposes.
[29th February 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations:

Commencement Information

[1](#) Act wholly in force at 29.04.1996 see s. 7(2).

1 Offences

If, save as permitted by this Act, any person mutilates, kicks, beats, nails or otherwise impales, stabs, burns, stones, crushes, drowns, drags or asphyxiates any wild mammal with intent to inflict unnecessary suffering he shall be guilty of an offence.

2 Exceptions from offence under the Act

A person shall not be guilty of an offence under this Act by reason of—

(a) the attempted killing of any such wild mammal as an act of mercy if he shows that the mammal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering;

(b) the killing in a reasonably swift and humane manner of any such wild mammal if he shows that the wild mammal had been injured or taken in the course of either lawful shooting, hunting, coursing or [F1lawful](#) pest control activity;

(c) doing anything which is authorised by or under any enactment;

(d)any act made unlawful by section 1 if the act was done by means of any snare, trap, dog, or bird lawfully used for the purpose of killing or taking any wild mammal; or

(e)the lawful use of any poisonous or noxious substance on any wild mammal.

Annotations:

Amendments (Textual)

F1Word in s. 2(b) inserted (S.) (1.8.2002) by 2002 asp 6, s. 11, Sch. para. 6; SSI 2002/181, art. 2

3 Interpretation

In this Act “wild mammal” means any mammal which is not a domestic or captive animal within the meaning of the

M1Protection of Animals Act 1911 or the **M2**Protection of Animals (Scotland) Act 1912.

Annotations:

Marginal Citations

M11911 c. 27.

M21912 c. 14.

4 Powers of constable

Where a constable has reasonable grounds for suspecting that a person has committed an offence under the provisions of this Act and that evidence of the commission of the offence may be found on that person or in or on any vehicle he may have with him, the constable may—

(a)without warrant, stop and search that person and any vehicle or article he may have with him; and

(b)seize and detain for the purposes of proceedings under any of those provisions anything which may be evidence of the commission of the offence or may be liable to be confiscated under section 6 of this Act.

Annotations:

Extent Information

E1S. 4 extends to England, Wales and Scotland but so much of s. 4 as refers to s. 6 does not apply to Scotland, see s. 7(4)

5 Penalties

(1)A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or a term of imprisonment not exceeding six months, or both.

(2)Provided that where the offence was committed in respect of more than one wild mammal, the maximum fine which may be imposed shall be determined as if the person had been convicted of a separate offence in respect of each such wild mammal.

6 Court powers of confiscation &c

(1)The court before whom any person is convicted under this Act may, in addition to any other punishment, order the confiscation of any vehicle or equipment used in the commission of the offence.

(2)The Secretary of State may, by regulations made by statutory instrument and subject to annulment in pursuance of a resolution of either House of Parliament, make provision for the disposal or destruction in prescribed circumstances of any vehicle or equipment confiscated under this section.

7 Citation, commencement and extent

(1)This Act may be cited as the Wild Mammals (Protection) Act 1996.

(2)This Act shall come into force with the expiration of the period of two months beginning with its passing.

(3)This Act shall not apply to Northern Ireland.

(4)Section 6 of this Act shall not apply to Scotland, and so much of section 4 as refers to that section shall also not apply there.



Badgers Act 1991

1991 CHAPTER 36

An Act to make provision for the protection of badger setts; and for connected purposes.

[25th July 1991]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendment of s. 2 of Badgers Act 1973

At the end of section 2 (Offences of cruelty) of the [1973 c. 57.] Badgers Act 1973, there shall be added—

“(3) If any person shall interfere with a badger sett by doing any of the following things, that is to say—

- (a) damaging a badger sett or any part thereof;
- (b) destroying a badger sett;
- (c) obstructing access to or any entrance of a badger sett;
- (d) causing a dog to enter a badger sett; or
- (e) disturbing a badger when it is occupying a badger sett,

intending to do any of those things or being reckless as to whether his actions will have any of those consequences, he shall be guilty of an offence.”

2 Amendment of s. 8 of Badgers Act 1973

(1) In section 8(1A) of the Badgers Act 1973—

- (a) after the words “under section 1(1)” there shall be inserted “or 2(3)”; and
- (b) after paragraph (b) there shall be inserted “or

(c) the interfering with any badger sett,”.

(2) At the end of section 8 of the Badgers Act 1973 there shall be added—

“(4) A person shall not be guilty of an offence under section 2 (3) (a), (c) or (e) of this Act if he shows that his action was the incidental result of a lawful operation and could not reasonably have been avoided.”

3 Extension of general exceptions

In Section 8 (General exceptions) of the [1973 c. 57.] Badgers Act 1973, at the end, there shall be inserted—

“(5) A person shall not be guilty of an offence under section 2(3)(a), (c) or (e) of this Act by reason of obstructing any entrance of a badger sett for the purpose of hunting foxes with hounds provided that he takes no action other than obstructing such entrances, does not dig into the tops or sides of the entrances, that the materials so used are not packed hard into the entrances, that the materials so used are only—

(a) untainted straw or hay, or leaf-litter, or bracken, or loose soil placed in the entrances on the day of the hunt, or after midday of the day preceding the day of the hunt, or

(b) a bundle of sticks or faggots, or paper sacks either empty or filled with untainted straw, or hay, or leaf-litter, or bracken, or loose soil, placed in the entrances on the day of the hunt and removed the same day,

and that the person is so doing with the authority of the landowner or occupier and is authorised by a Hunt recognised by the Masters of Fox Hounds Association, the Association of Masters of Harriers and Beagles or the Central Committee of Fell Packs, which Hunt shall keep a register of all such persons.

(6) A person shall not be guilty of an offence under section 2(3)(a) or (c) or (e) of this Act by reason of his hounds marking at a badger sett, provided they are withdrawn as soon as reasonably practicable.”

4 Amendment of s. 9 of Badgers Act 1973

In section 9 (Licences) of the Badgers Act 1973—

(a) in subsection (1)(a), at the end, there shall be added “or to interfere with any badger sett within the said area by means so specified”;

(b) in subsection (1)(d) after the words “to kill or take badgers” there shall be inserted “or to interfere with a badger sett”;

(c) in subsection (1)(e) after the words “kill or take badgers” there shall be inserted “or to interfere with a badger sett”;

(d) after subsection (1)(e) there shall be inserted—

“(f) for the purpose of any development as defined in section 55(1) of the [1990 c. 8.] Town and Country Planning Act 1990 or, as respects Scotland, section 19(1) of the [1972 c. 52.] Town and Country Planning (Scotland) Act 1972, to interfere with a badger sett within an area specified in the licence by any means so specified;

(g) for the purpose of any agricultural or forestry operation, to interfere with a badger sett within an area specified in the licence by any means so specified;

(h) for the purpose of any operation (whether by virtue of the [1976 c. 70.] Land Drainage Act 1976 or otherwise) to maintain or improve any existing watercourse or drainage works, or construct new works required for the drainage of any land, including works for the purpose of defence against sea water or tidal water, to interfere with a badger sett within an area specified in the licence by any means so specified;

(i) for the purpose of investigating whether any offence has been committed or gathering evidence in connection with proceedings before any court, to interfere with a badger sett, within an area specified in the licence by any means so specified;

(j) for the purpose of the preservation, or archaeological investigation, of a monument scheduled under section 1 of the [1979 c. 46.] Ancient Monuments and Archaeological Areas Act 1979, to interfere with a badger sett within an area specified in the licence by any means so specified;

(k) for the purpose of controlling foxes in order to protect livestock, game or wild life, to interfere with a badger sett within an area specified in the licence by any means so specified.”;

(e) in subsection (2)(a), for “(b) or (c)” there shall be substituted “(b), (c), (f), (i) or (j)”;

(f) in subsection (2)(b), for “(d) or (e)” there shall be substituted “(d), (e), (g) or (h)”;

(g) after subsection (2)(b) there shall be inserted—

“(c) in the case of a licence under paragraph (k) of that subsection—

(i) in England, the Minister of Agriculture, Fisheries and Food or the Nature Conservancy Council for England;

(ii) in Wales, the Secretary of State or the Countryside Council for Wales; and

(iii) in Scotland, the Secretary of State or the Nature Conservancy Council for Scotland.”;

(h) the first subsection (4) (which provides for consultation by the Minister of Agriculture, Fisheries and Food and the Secretary of State with the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland or the Countryside Council for Wales in the exercise of certain functions) shall be renumbered as subsection (5); and for “subsection (1)(e)” there shall be substituted, “subsection (1)(e), (g) or (h)”;

(i) at the end of that section there shall be inserted—

“(6) A licence under this section shall not be unreasonably withheld or revoked.”

5 Amendment of s. 11 of Badgers Act 1973

In section 11 (Interpretation) of the [1973 c. 57.] Badgers Act 1973, after the words “*Meles meles*,” there shall be inserted—

““badger sett” means any structure or place which displays signs indicating current use by a badger;”.

6 Citation and commencement

(1) This Act may be cited as the Badgers Act 1991.

(2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.



Hunting Act 2004

2004 CHAPTER 37

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An Act to make provision about hunting wild mammals with dogs; to prohibit hare coursing; and for connected purposes. 9

[18th November 2004]

BE IT ENACTED by The Queen's most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Acts 1911 and 1949, and by the authority of the same, as follows:—

PART 1 OFFENCES

1 Hunting wild mammals with dogs

A person commits an offence if he hunts a wild mammal with a dog, unless his hunting is exempt.

2 Exempt hunting

(1) Hunting is exempt if it is within a class specified in Schedule 1.

(2) The Secretary of State may by order amend Schedule 1 so as to vary a class of exempt hunting.

3 Hunting: assistance

(1) A person commits an offence if he knowingly permits land which belongs to him to be entered or used in the course of the commission of an offence under section 1.

(2) A person commits an offence if he knowingly permits a dog which belongs to him to be used in the course of the commission of an offence under section 1.

4 Hunting: defence

It is a defence for a person charged with an offence under section 1 in respect of hunting to show that he reasonably believed that the hunting was exempt.

5 Hare coursing

(1) A person commits an offence if he—

(a) participates in a hare coursing event,

(b) attends a hare coursing event,

(c) knowingly facilitates a hare coursing event, or

(d) permits land which belongs to him to be used for the purposes of a hare coursing event.

(2) Each of the following persons commits an offence if a dog participates in a hare coursing event—

(a) any person who enters the dog for the event,

- (b) any person who permits the dog to be entered, and
 - (c) any person who controls or handles the dog in the course of or for the purposes of the event.
- (3) A "hare coursing event" is a competition in which dogs are, by the use of live hares, assessed as to skill in hunting hares.

PART 2 ENFORCEMENT

6 Penalty

A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

7 Arrest

A constable without a warrant may arrest a person whom he reasonably suspects—

- (a) to have committed an offence under section 1 or 5(1)(a), (b) or (2),
- (b) to be committing an offence under any of those provisions, or
- (c) to be about to commit an offence under any of those provisions.

8 Search and seizure

(1) This section applies where a constable reasonably suspects that a person ("the suspect") is committing or has committed an offence under Part 1 of this Act.

(2) If the constable reasonably believes that evidence of the offence is likely to be found on the suspect, the constable may stop the suspect and search him.

(3) If the constable reasonably believes that evidence of the offence is likely to be found on or in a vehicle, animal or other thing of which the suspect appears to be in possession or control, the constable may stop and search the vehicle, animal or other thing.

(4) A constable may seize and detain a vehicle, animal or other thing if he reasonably believes that—

- (a) it may be used as evidence in criminal proceedings for an offence under Part 1 of this Act, or
- (b) it may be made the subject of an order under section 9.

(5) For the purposes of exercising a power under this section a constable may enter—

- (a) land;
- (b) premises other than a dwelling;
- (c) a vehicle.

(6) The exercise of a power under this section does not require a warrant.

9 Forfeiture

(1) A court which convicts a person of an offence under Part 1 of this Act may order the forfeiture of any dog or hunting article which—

- (a) was used in the commission of the offence, or
 - (b) was in the possession of the person convicted at the time of his arrest.
- (2) A court which convicts a person of an offence under Part 1 of this Act may order the forfeiture of any vehicle which was used in the commission of the offence.
- (3) In subsection (1) “hunting article” means anything designed or adapted for use in connection with—
- (a) hunting a wild mammal, or
 - (b) hare coursing.
- (4) A forfeiture order—
- (a) may include such provision about the treatment of the dog, vehicle or article forfeited as the court thinks appropriate, and
 - (b) subject to provision made under paragraph (a), shall be treated as requiring any person who is in possession of the dog, vehicle or article to surrender it to a constable as soon as is reasonably practicable.
- (5) Where a forfeited dog, vehicle or article is retained by or surrendered to a constable, the police force of which the constable is a member shall ensure that such arrangements are made for its destruction or disposal—
- (a) as are specified in the forfeiture order, or
 - (b) where no arrangements are specified in the order, as seem to the police force to be appropriate.
- (6) The court which makes a forfeiture order may order the return of the forfeited dog, vehicle or article on an application made—
- (a) by a person who claims to have an interest in the dog, vehicle or article (other than the person on whose conviction the order was made), and
 - (b) before the dog, vehicle or article has been destroyed or finally disposed of under subsection (5).
- (7) A person commits an offence if he fails to—
- (a) comply with a forfeiture order, or
 - (b) co-operate with a step taken for the purpose of giving effect to a forfeiture order.

10 Offence by body corporate

- (1) This section applies where an offence under this Act is committed by a body corporate with the consent or connivance of an officer of the body.
- (2) The officer, as well as the body, shall be guilty of the offence.
- (3) In subsection (1) a reference to an officer of a body corporate includes a reference to—
- (a) a director, manager or secretary,
 - (b) a person purporting to act as a director, manager or secretary, and
 - (c) if the affairs of the body are managed by its members, a member.

PART 3 GENERAL

11 Interpretation

- (1) In this Act “wild mammal” includes, in particular—
- (a) a wild mammal which has been bred or tamed for any purpose,
 - (b) a wild mammal which is in captivity or confinement,
 - (c) a wild mammal which has escaped or been released from captivity or confinement, and
 - (d) any mammal which is living wild.
- (2) For the purposes of this Act a reference to a person hunting a wild mammal with a dog includes, in particular, any case where—
- (a) a person engages or participates in the pursuit of a wild mammal, and
 - (b) one or more dogs are employed in that pursuit (whether or not by him and whether or not under his control or direction).

(3) For the purposes of this Act land belongs to a person if he—

- (a) owns an interest in it,
- (b) manages or controls it, or
- (c) occupies it.

(4) For the purposes of this Act a dog belongs to a person if he—

- (a) owns it,
- (b) is in charge of it, or
- (c) has control of it.

12 Crown application

This Act—

- (a) binds the Crown, and
- (b) applies to anything done on or in respect of land irrespective of whether it belongs to or is used for the purposes of the Crown or a Duchy.

13 Amendments and repeals

- (1) Schedule 2 (consequential amendments) shall have effect.
- (2) The enactments listed in Schedule 3 are hereby repealed to the extent specified.

14 Subordinate legislation

An order of the Secretary of State under this Act—

- (a) shall be made by statutory instrument,
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament,
- (c) may make provision which applies generally or only in specified circumstances or for specified purposes,
- (d) may make different provision for different circumstances or purposes, and
- (e) may make transitional, consequential and incidental provision.

15 Commencement

This Act shall come into force at the end of the period of three months beginning with the date on which it is passed.

16 Short title

This Act may be cited as the Hunting Act 2004.

17 Extent

This Act shall extend only to England and Wales.

SCHEDULES

Section 2

SCHEDULE 1 EXEMPT HUNTING

Stalking and flushing out

1 (1) Stalking a wild mammal, or flushing it out of cover, is exempt hunting if the conditions in this paragraph are satisfied.

(2) The first condition is that the stalking or flushing out is undertaken for the purpose of—

(a) preventing or reducing serious damage which the wild mammal would otherwise cause—

- (i) to livestock,
- (ii) to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)),
- (iii) to food for livestock,
- (iv) to crops (including vegetables and fruit),

(v) to growing timber,

(vi) to fisheries,

(vii) to other property, or

(viii) to the biological diversity of an area (within the meaning of the United Nations Environmental Programme Convention on Biological Diversity of 1992),

(b) obtaining meat to be used for human or animal consumption, or

(c) participation in a field trial.

(3) In subparagraph (2)(c) “field trial” means a competition (other than a hare coursing event within the meaning of section 5) in which dogs—

(a) flush animals out of cover or retrieve animals that have been shot (or both), and

(b) are assessed as to their likely usefulness in connection with shooting.

(4) The second condition is that the stalking or flushing out takes place on land—

(a) which belongs to the person doing the stalking or flushing out, or

(b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

(5) The third condition is that the stalking or flushing out does not involve the use of more than two dogs.

(6) The fourth condition is that the stalking or flushing out does not involve the use of a dog below ground otherwise than in accordance with paragraph 2 below.

(7) The fifth condition is that—

(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found or flushed out the wild mammal is shot dead by a competent person, and

(b) in particular, each dog used in the stalking or flushing out is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a).

Use of dogs below ground to protect birds for shooting

2 (1) The use of a dog below ground in the course of stalking or flushing out is in accordance with this paragraph if the conditions in this paragraph are satisfied.

(2) The first condition is that the stalking or flushing out is undertaken for the purpose of preventing or reducing serious damage to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)) which a person is keeping or preserving for the purpose of their being shot.

(3) The second condition is that the person doing the stalking or flushing out—

(a) has with him written evidence—

(i) that the land on which the stalking or flushing out takes place belongs to him, or

(ii) that he has been given permission to use that land for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, and

(b) makes the evidence immediately available for inspection by a constable who asks to see it.

(4) The third condition is that the stalking or flushing out does not involve the use of more than one dog below ground at any one time.

(5) In so far as stalking or flushing out is undertaken with the use of a dog below ground in accordance with this paragraph, paragraph 1 shall have effect as if for the condition in paragraph 1(7) there were substituted the condition that—

(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is flushed out from below ground,

(b) reasonable steps are taken for the purpose of ensuring that as soon as possible after being flushed out from below ground the wild mammal is shot dead by a competent person,

(c) in particular, the dog is brought under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (b),

(d) reasonable steps are taken for the purpose of preventing injury to the dog, and

(e) the manner in which the dog is used complies with any code of practice which is issued or approved for the purpose of this paragraph by the Secretary of State.

Rats

3 The hunting of rats is exempt if it takes place on land—

(a) which belongs to the hunter, or

(b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Rabbits

4 The hunting of rabbits is exempt if it takes place on land—

(a) which belongs to the hunter, or

(b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Retrieval of hares

5 The hunting of a hare which has been shot is exempt if it takes place on land—

(a) which belongs to the hunter, or

(b) which he has been given permission to use for the purpose of hunting hares by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Falconry

6 Flushing a wild mammal from cover is exempt hunting if undertaken—

(a) for the purpose of enabling a bird of prey to hunt the wild mammal, and

(b) on land which belongs to the hunter or which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Recapture of wild mammal

7 (1) The hunting of a wild mammal which has escaped or been released from captivity or confinement is exempt if the conditions in this paragraph are satisfied.

(2) The first condition is that the hunting takes place—

(a) on land which belongs to the hunter,

(b) on land which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, or

(c) with the authority of a constable.

(3) The second condition is that—

(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is recaptured or shot dead by a competent person, and

(b) in particular, each dog used in the hunt is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a).

(4) The third condition is that the wild mammal—

(a) was not released for the purpose of being hunted, and

(b) was not, for that purpose, permitted to escape.

Rescue of wild mammal

8 (1) The hunting of a wild mammal is exempt if the conditions in this paragraph are satisfied.

(2) The first condition is that the hunter reasonably believes that the wild mammal is or may be injured.

(3) The second condition is that the hunting is undertaken for the purpose of relieving the wild mammal's suffering.

(4) The third condition is that the hunting does not involve the use of more than two dogs.

- (5) The fourth condition is that the hunting does not involve the use of a dog below ground.
- (6) The fifth condition is that the hunting takes place—
 - (a) on land which belongs to the hunter,
 - (b) on land which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, or
 - (c) with the authority of a constable.
- (7) The sixth condition is that—
 - (a) reasonable steps are taken for the purpose of ensuring that as soon as possible after the wild mammal is found appropriate action (if any) is taken to relieve its suffering, and
 - (b) in particular, each dog used in the hunt is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a).
- (8) The seventh condition is that the wild mammal was not harmed for the purpose of enabling it to be hunted in reliance upon this paragraph.

Research and observation

- 9 (1) The hunting of a wild mammal is exempt if the conditions in this paragraph are satisfied.
- (2) The first condition is that the hunting is undertaken for the purpose of or in connection with the observation or study of the wild mammal.
- (3) The second condition is that the hunting does not involve the use of more than two dogs.
- (4) The third condition is that the hunting does not involve the use of a dog below ground.
- (5) The fourth condition is that the hunting takes place on land—
 - (a) which belongs to the hunter, or
 - (b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.
- (6) The fifth condition is that each dog used in the hunt is kept under sufficiently close control to ensure that it does not injure the wild mammal.

SCHEDULE 2 CONSEQUENTIAL AMENDMENTS

Game Act 1831 (c. 32)

1 In section 35 of the Game Act 1831 (provision about trespassers: exceptions) the following words shall cease to have effect: “to any person hunting or coursing upon any lands with hounds or greyhounds, and being in fresh pursuit of any deer, hare or fox already started upon any other land, nor”.

Game Licences Act 1860 (c. 90)

2 In section 5 of the Game Licences Act 1860 (exceptions) exceptions 3 and 4 (hares and deer) shall cease to have effect.

Protection of Animals Act 1911 (c. 27)

3 In section 1(3)(b) of the Protection of Animals Act 1911 (offence of cruelty: exceptions) a reference to coursing or hunting shall not include a reference to—

- (a) participation in a hare coursing event (within the meaning of section 5 of this Act), or
- (b) the coursing or hunting of a wild mammal with a dog (within the meaning of this Act).

Protection of Badgers Act 1992 (c. 51)

4 Section 8(4) to (9) of the Protection of Badgers Act 1992 (exception for hunting) shall cease to have effect.

Wild Mammals (Protection) Act 1996 (c. 3)

5 For the purposes of section 2 of the Wild Mammals (Protection) Act 1996 (offences: exceptions) the hunting of a wild mammal with a dog (within the meaning of this Act) shall be treated as lawful if and only if it is exempt hunting within the meaning of this Act.

Section 13

SCHEDULE 3 REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
The Game Act 1831 (c. 32)	In section 35, the words “to any person hunting or coursing upon any lands with hounds or greyhounds, and being in fresh pursuit of any deer, hare or fox already started upon any other land, nor”.
The Game Licences Act 1860 (c. 90)	In section 5, exceptions 3 and 4.
The Protection of Badgers Act 1992 (c. 51)	Section 8(4) to (9).

ANEXO II: NOTICIAS

Las 25 leyes más absurdas del mundo

- Las ha publicado 'The Times'.
- Son raras, difíciles de entender, inexplicables y poco habituales.
- Entre las 25 no hay ninguna española.

20MINUTOS.ES. 16.08.2007 - 19.15 h

El sistema legislativo es duramente criticado desde algunos grupos sociales, que proponen la abolición de toda ley.

Estos grupos se escandalizarían al ver [la lista publicada por The Times](#), en la que se incluyen **las leyes más absurdas recogidas** en todo el mundo.

Son normas de Estados Unidos, Inglaterra, Indonesia o Bahrein, con un rasgo común: resultan insólitas.

Las 25 normas

- **1.** Si aparece una ballena muerta en las costas británicas, la cabeza es del rey. Sin embargo, la cola pertenece a la reina en el caso de que necesite los huesos para su corsé.
- **2.** En [Bahrein](#), un doctor puede examinar los genitales de una mujer, pero tiene terminantemente **prohibido mirar a ellos directamente** durante el examen, y sólo puede ver su reflejo en un espejo.
- **3.** En Londres es ilegal montar en un taxi si se tiene la peste.
- **4.** En [Vermont](#) (Estados Unidos) , las mujeres necesitan un permiso firmado de sus maridos para usar dentadura postiza.
- **5.** En la ciudad estadounidense de [Boulder](#), Colorado, **es ilegal matar un pájaro** dentro de los límites de la ciudad, así como ser el dueño de una mascota (legalmente, los ciudadanos sólo son "supervisores" de éstas).
- **6.** En la ciudad de [York](#) (Inglaterra), es legal asesinar a un escocés dentro de las antiguas murallas, pero sólo si él lleva un arco y flechas.
- **7.** En [Chester](#) (Inglaterra), los galeses no pueden entrar a la ciudad antes de la salida del sol, y no pueden permanecer en ella una vez se ha puesto.
- **8.** En [Kentucky](#) (EEUU), es **ilegal llevar armas ocultas** que excedan de los dos metros de largo.
- **9.** En [Florida](#) (EEUU), las mujeres solteras que salten en paracaídas los domingos pueden ser encarceladas.

- **10.** En el Reino Unido, un hombre que se siente obligado a orinar en público puede hacerlo siempre y cuando apunte hacia la rueda de su vehículo y mantenga su mano derecha apoyada en él.
- **11.** En El Salvador, los conductores ebrios pueden ser **castigados con la muerte ante un pelotón** de fusilamiento.
- **12.** Está permitido pasear un rebaño de ovejas a lo largo del Puente de Londres sin tener que pagar peaje, lo mismo que ocurre con los gansos en Cheapside.
- **13.** En el Reino Unido, los hombres menores de 14 deben practicar diariamente el tiro con arco.
- **14.** En Indonesia, **la masturbación está penada** con la decapitación.
- **15.** En Miami, es ilegal pasearse por la comisaría de Policía en monopatín.
- **16.** En [Lancashire](#) (Inglaterra) , si un policía te para en la orilla del mar, está prohibido que incites a un perro a ladrar.
- **17.** En el Reino Unido, una embarazada puede orinar donde quiera, incluso en un casco de policía.
- **18.** Los barcos de la Armada Real Británica que entran al Puerto de Londres deben **proporcionar un barril de ron** a los encargados de la Torre de Londres.
- **19.** En [Ohio](#) (EEUU), es ilegal tener un pez borracho.
- **20.** En [Alabama](#) (EEUU) , es ilegal vendar los ojos a una persona mientras conduce su vehículo.
- **21.** En el Reino Unido, es ilegal no contarle al cobrador de impuestos lo que no quieres que sepa. Sin embargo, puedes ocultarle lo que no te importaría que supiese.
- **22.** En Francia, es **ilegal poner de nombre a un cerdo** Napoleón.
- **23.** En el Reino Unido, se considera un acto de traición poner al revés un sello de correos en el que aparece una imagen de la monarquía británica.
- **24.** Es ilegal morir en el Parlamento británico.
- **25.** Va contra la ley **que un taxi transporte cadáveres** o perros rabiosos en Londres.

From Times Online August 15, 2007

The world's strangest laws

Did you know it's illegal in France to name a pig Napoleon? Or that in Ohio you're not allowed to get a fish drunk? Alex Wade celebrates the spirit of the silly season with a list of the world's most ridiculous laws**Alex Wade**

Recommend? (131)

(Kham/Reuters)

Did you know that in France it is forbidden to call your pig Napoleon?

25. It is illegal for a cab in the City of London to carry rabid dogs or corpses.

24. It is illegal to die in the Houses of Parliament.

23. It is an act of treason to place a postage stamp bearing the British monarch upside down.

22. In France, it is forbidden to call a pig Napoleon.

21. Under the UK's Tax Avoidance Schemes Regulations 2006, it is illegal not to tell the taxman anything you don't want him to know, though you don't have to tell him anything you don't mind him knowing.

20. In Alabama, it is illegal for a driver to be blindfolded while driving a vehicle.

19. In Ohio, it is against state law to get a fish drunk.

18. Royal Navy ships that enter the Port of London must provide a barrel of rum to the Constable of the Tower of London.

17. In the UK, a pregnant woman can legally relieve herself anywhere she wants – even, if she so requests, in a policeman's helmet.

16. In Lancashire, no person is permitted after being asked to stop by a constable on the seashore to incite a dog to bark.

15. In Miami, Florida, it is illegal to skateboard in a police station.

14. In Indonesia, the penalty for masturbation is decapitation.

13. In England, all men over the age of 14 must carry out two hours of longbow practice a day.

12. In London, Freeman are allowed to take a flock of sheep across London Bridge without being charged a toll; they are also allowed to drive geese down Cheapside.

11. In San Salvador, drunk drivers can be punished by death before a firing squad.

10. In the UK, a man who feels compelled to urinate in public can do so only if he aims for his rear wheel and keeps his right hand on his vehicle.

9. In Florida, unmarried women who parachute on Sundays can be jailed.

8. In Kentucky, it is illegal to carry a concealed weapon more than six-feet long.

7. In Chester, Welshmen are banned from entering the city before sunrise and from staying after sunset.

6. In the city of York, it is legal to murder a Scotsman within the ancient city walls, but only if he is carrying a bow and arrow.

5. In Boulder, Colorado, it is illegal to kill a bird within the city limits and also to “own” a pet – the town’s citizens, legally speaking, are merely “pet minders”.

4. In Vermont, women must obtain written permission from their husbands to wear false teeth.

3. In London, it is illegal to flag down a taxi if you have the plague.

2. In Bahrain, a male doctor may legally examine a woman’s genitals but is forbidden from looking directly at them during the examination; he may only see their reflection in a mirror.

1. The head of any dead whale found on the British coast is legally the property of the King; the tail, on the other hand, belongs to the Queen - in case she needs the bones for her corset.

With thanks to: Donald Stewart at Faegre & Benson; John Barnett at Burges Salmon; Robert Crossley at Walker Morris; James Odds at Matthew Arnold & Baldwin; and Dan Kieran, author of *I Fought The Law* (Bantam Press).

La "reina de la maldad" deja 12 millones de dólares a su perra Trouble³⁹

0 votos
72 comentarios



29/08/2007 | Actualizada a las 15:44h | Gente y TV

EE.UU. (Agencias).- La multimillonaria Leona Helmsley, la dueña de un imperio inmobiliario en Estados Unidos fallecida la semana pasada, desheredó a dos nietos y dejó en cambio 12 millones de dólares a su perrita, reveló este miércoles la prensa norteamericana.

PALABRAS CLAVE

[David](#), [Daily News](#), [Empire State Building](#), [Estados Unidos](#), [Nueva York](#)

La "reina de la maldad" confortó con sus últimas voluntades el apodo que se ganó en vida en los tabloides, ya que el principal beneficiario será Trouble, la pequeña maltés blanca de la que nunca se separaba, según el Daily News.

El cuidado de la perrita mimada quedará a cargo de Alvin Rosenthal, hermano de la difunta y menos afortunado que el can, ya que recibirá 10 millones de dólares.

A sus nietos David y Walter accedió a dejarles 5 millones de dólares a cada uno, pero con condiciones: deben visitar por lo menos una vez al año la tumba del padre "preferentemente el día aniversario de su muerte", dice el testamento.

Craig y Meegan, los otros dos nietos, se quedaron en cambio sin nada "por razones por ellos conocidas", testó la acaudalada señora fallecida el 20 de agosto, que en 1972 se había casado con el magnate Harry Helmsley.

Juntos administraron una cadena de hoteles y otros negocios inmobiliarios, incluyendo el Empire State Building, actualmente el edificio más alto de Nueva York.

Una vez que la perrita Trouble sea llamada al otro mundo se reunirá con su ama en el mausoleo rodeado de doce columnas dóricas que será mantenido en perfecto estado gracias a un fondo de 3 millones de dólares que Leona Helmsley dispuso para seguir viviendo en el lujo con su perrita su vida de ultratumba.

³⁹ <http://www.lavanguardia.es/lv24h/20070829/53389432306.html>

