

Memorandum to Environment,
Food and Rural Affairs Committee
Post-Legislative Assessment of the
Animal Welfare Act 2006

December 2010



Memorandum to Environment, Food and Rural Affairs Committee Post-Legislative Assessment of the Animal Welfare Act 2006

Presented to Parliament
by the Secretary of State for Environment, Food and Rural Affairs by Command of Her Majesty

December 2010

© Crown copyright 2010

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU. or e-mail: psi@nationalarchives.gsi.gov.uk

Any enquiries regarding this publication should be sent to us at:
Animal Welfare Team, Defra, Area 8B, 9 Millbank, c/o 17 Smith Square, London SW1P 3JR.
Telephone: 08459 33 55 77
e-mail: animalwelfare@defra.gsi.gov.uk

This publication is also available on <http://www.official-documents.gov.uk/>

ISBN: 9780101798228

Printed in the UK for The Stationery Office Limited on behalf of the Controller of Her Majesty's Stationery Office

ID 2406132 12/10

Printed on paper containing 75% recycled fibre content minimum.

PB13454

Contents

	Number of page
Foreword by Secretary of State	5
Introduction	7
• The Animal Welfare Act 2006 (“the Act”)	7
• Objectives of the Act	7
• Devolution	8
• Implementation, amendments and secondary legislation	8
• Legal issues	10
• Preliminary assessment of the Act	11
• Views of specific sections of the Act	12
Conclusion	17
Annex 1 – Prosecutions and Convictions	18
Annex 2 – List of consultees	19

Foreword by Secretary of State



This country has long prided itself in caring for its animals and since Martin's Act was passed in 1822, Parliament has recognised that there is a need for laws to be in place to prevent cruelty.

Far-reaching statutory protection for animals came along in the form of the Protection of Animals Act 1911 which made it an offence for anyone to cause unnecessary suffering to an animal. Although further legislation was passed, it was the 1911 Act which shaped the way we protected our animals from unnecessary suffering. By the 2000s some 800 people were successfully prosecuted under the Act each year, mostly by the RSPCA for offences against captive animals.

Pressure to replace the 1911 Act with more up-to-date legislation began in earnest in the mid 1990s. Laws protecting farmed animals had outstripped those protecting companion and other non-farmed animals. In addition to the offence of causing unnecessary suffering, owners and keepers of farmed animals had to provide for the welfare needs of their animals – more commonly known as the “five freedoms”. This meant that the animals must be provided with suitable environment, suitable diet, be able to exhibit natural behaviour, possibly be housed with or apart from other animals and be kept free from injury and disease. Such requirements allowed inspectors to take action before an animal actually began to suffer. It was therefore inconsistent not to apply the same requirements to all kept animals and this is exactly what the Animal Welfare Act 2006 does. This allows early intervention where any vertebrate animal kept by man is being treated in a way that will inevitably cause unnecessary suffering. I am particularly heartened by the fact that the RSPCA has used this power to work constructively with animal keepers who through ignorance are failing to provide appropriate care.

The 2006 Act has also got rid of some of the loopholes that existed in the earlier law. Definitions have been more finely drawn and it is no longer possible to circumvent court orders that courts make to disqualify the worst offenders from keeping animals. Powers of seizure have also been improved so that we can now act quickly where, for example, a bad farmer who has been charged with animal cruelty decides to acquire new stock.

The Act also provided new powers to tackle dog fighting and prohibited a number of mutilations. It also introduced a partial ban on the docking of dogs' tails.

The power to make secondary legislation and codes of practice has been utilised but I am pleased that this has progressed at a sensible pace and has not been used arbitrarily.

The measure of the Act's success must, however, lie in how it is working. From that point of view, we can see that it continues to allow enforcers to prosecute offenders brought before the courts. In 2009, under the Act, 896 persons were found guilty of causing unnecessary suffering to animals. This is similar to the numbers found guilty of the same offence under the previous legislation in 2007 (851), 2006 (758) and 2005 (843). The RSPCA prosecution success rate continues to be high and has increased marginally under the Act from 97% in 2007 to over 98% in 2009, when 103 people were found guilty of failing to provide for the welfare needs of their animals.

But it is not all about prosecution rates. The purpose of the new requirement that all owners should provide for the welfare needs of their animals, was to enable early intervention without the need to prosecute in every case. In 2009 the RSPCA “cautioned” 612 people for not providing for the welfare needs of their animals. These people co-operated with the RSPCA to improve the welfare of their animals and thereby avoided the need to be prosecuted. The Act has lifted the law on animal welfare in England and Wales into the 21st century and with so many affected parties lending their support to the Act, it has the ability to last as long as its predecessor – nearly 100 years.

There was cross-party support for the Act as it passed through Parliament, and I like to think that all political persuasions will continue to make it work well now and in the future.

A handwritten signature in black ink that reads "Caroline Spelman". The signature is written in a cursive, flowing style.

Caroline Spelman
Secretary of State for Environment,
Food and Rural Affairs
Defra

Introduction

1. This memorandum provides a preliminary assessment of the Animal Welfare Act 2006 (2006 Ch. 45) and has been prepared by The Department for Environment, Food and Rural Affairs for submission to the Environment, Food and Rural Affairs Select Committee. It is published as part of the process set out in the document *Post-Legislative Scrutiny – The Government's Approach* (Cm 7320). The paragraphs below follow the order of the provisions in the Act.

The Animal Welfare Act 2006 (“the Act”)

2. The Act received Royal Assent on 8 November 2006. The Act updates legislation and brings together the effects of 22 separate Acts of Parliament, going back to the Protection of Animals Act 1911. It was felt that earlier legislation had ceased to meet modern day animal welfare needs; there had also been judicial criticism of the ambiguities and archaic language of the 1911 Act.
3. The purpose of the Act was to reduce animal suffering by consolidating and updating legislation that exists to promote and improve the welfare of farmed, domestic and captive animals. The creation of Defra in 2001 brought together under one department responsibility for the legislation relating to farmed animals and animals used for entertainment, recreation, companionship, sport, work and captive wild animals; this provided an opportunity to bring together and revise these laws.

Objectives of the Act

4. The Act harmonises animal welfare standards amongst farmed species and aims to ensure that the welfare of non-farmed/companion animal species are protected to similar levels. The objectives of the Act were to:
 - i. Simplify the legislation for enforcers and animal keepers by consolidating 22 pieces of legislation into one.
 - ii. Introduce a “duty of care” for owners to ensure the needs of any animal for which they are responsible are met.
 - iii. Create a new offence of failing to provide for the needs of animals in a person’s care.
 - iv. Allow preventative action to be taken to protect animals, rather than have to wait for an animal to show signs of suffering before intervening.
 - v. Place more emphasis on owners and keepers who must understand their responsibilities and take all reasonable steps to provide for the needs of their animals.
 - vi. Make provision for secondary legislation to promote the welfare of farmed animals and non-farmed animals in the form of regulations and codes of practice, bringing legislation for non-farmed animals in line with that for farmed animals.
 - vii. Strengthen and amend current offences related to animal fighting.
 - viii. Make provision for any person or organisation to prosecute under the Act.
 - ix. Increase the effectiveness of law enforcement for animal welfare offences.

- x. Increase from 12 to 16 years the minimum age at which a child may buy an animal, and prohibit the giving of pets as prizes to unaccompanied children under the age of 16.
 - xi. Ban mutilations of animals, with certain specified exemptions.
5. The categories of animal that are protected under the Act depend on the offence in question. For example, the duty to ensure an animal's welfare only applies to animals that are owned or for which someone is otherwise responsible, but the cruelty and fighting offences have a wider application. The Act has only limited application to animals in research establishments, the welfare of which is regulated by the Animals (Scientific Procedures) Act 1986.

Devolution

6. The Act applies to England and Wales. Minor provisions extend to Scotland, including (a) section 46 which enables disqualification orders made by the courts in England and Wales to have force in Scotland, (b) sections 47 to 50, which make provisions regarding the powers of the Scottish courts to enforce disqualification orders under the Act in Scotland, (c) repeals of certain legislation, and (d) commencement orders. It extends to Northern Ireland in respect of certain consequential and minor amendments only.
7. In relation to England, all of the regulation and order making powers contained in the Act are to be exercised by the Secretary of State. In relation to Wales all of those same powers are to be exercised by the National Assembly for Wales. The National Assembly for Wales is therefore responsible for making secondary legislation under the Act. The Act does not set out the legislative procedure for codes of practice issued by the National Assembly for Wales, although such codes will be subject to scrutiny in accordance with the Assembly's Standing Orders. In all other respects the Act affects England and Wales in the same way.

Implementation, amendments and secondary legislation

8. The Act repealed much of the Protection of Animals Act 1911 Act. The Act replicated the protection provided by the 1911 Act.
9. The Act made provisions for the Secretary of State to introduce secondary legislation, including regulations and Codes of Practice. A list of the Orders, regulations and Codes of Practice made under the Act is below:

Orders:

- Animal Welfare Act 2006 (Commencement No. 1) (England) Order 2007
- Animal Welfare Act 2006 (Commencement No. 1) (Scotland) Order 2007
- Animal Welfare Act 2006 (Commencement No. 1) (Wales) Order 2007
- Animal Welfare Act 2006 (Commencement No. 2 and Saving and Transitional Provisions) (England) Order 2007
- Animal Welfare Act 2006 (Commencement No. 2 and Saving and Transitional Provisions) (Wales) Order 2007
- Animal Welfare (Codes of Practice) (Appointed Day) (England) Order 2010

Regulations:

England only:

- Docking of Working Dogs' Tails (England) Regulations 2007 S.I. 2007/1120, came into force on 6th April 2007.
- Mutilations (Permitted Procedures) (England) Regulations 2007 S.I. 2007/1100, came into force on 6th April 2007.
- Welfare of Farmed Animals (England) Regulations 2007(1) S.I. 2007/2078, came into force on 1st October 2007.
- Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2008 S.I. 2008/1426, came into force on 3rd June 2008.
- Welfare of Racing Greyhounds Regulations 2010(1) S.I. 2010/543 introduced a set of minimum welfare standards for all greyhound racing tracks in England.

Wales only:

- Mutilations (Permitted Procedures) (Wales) Regulations 2007 S.I. 2007/1029 (W.96), came into force on 28th March 2007.
- Docking of Working Dogs' Tails (Wales) Regulations 2007(1) S.I. 2007/1028 (W.95), came into force on 29th March 2007.
- Welfare of Farmed Animals (Wales) Regulations 2007(1) S.I. 2007/3070 (W.264), came into force on 24th October 2007.
- Mutilations (Permitted Procedures) (Wales) (Amendment) Regulations 2008 (1) S.I. 2008/3093 (W.273), came into force on 3rd December 2008.
- The Animal Welfare (Electronic Collars) (Wales) Regulations 2010 S.I. 2010/943 (W.97), came into force on 24th March 2010.

Codes of Practice:

10. The Animal Welfare (Codes of Practice) (Appointed Day) (England) Order 2010 S.I. 2010/383 brought into force the following codes of practice on 6th April 2010 to provide owners and keepers with information on how to meet the welfare needs of their animals, as required under the Act:
 - Code of Practice for the Welfare of Privately Kept Non-Human Primates;
 - Code of Practice for the Welfare of Cats;
 - Code of Practice for the Welfare of Dogs;
 - Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids.
11. The Code of Practice for the Welfare of Gamebirds Reared for Sporting Purposes was laid before Parliament for approval on 22nd July 2010 and will come into force on 1st January 2011.
12. The Animal Welfare (Codes of Practice) (Appointed Day) (Wales) Order 2008 brought into force:
 - Code of Practice for the Welfare of Cats – published 01.12.08
 - Code of Practice for the Welfare of Dogs – published 01.12.08
 - Code of Practice for the Welfare of Equines – published 01.12.08
 - Code of Practice for the Welfare of Rabbits – published 09.11.09

Legal issues

Overview

13. At Annex 1 there is a table setting out prosecutions brought under the Act.
14. An analysis of the “Return of expenditure incurred and prosecutions taken under the Animal Health Act 1981 and incidences of disease in imported animals for the year 2008” (“the 2008 Report”)¹ and the “Return of expenditure incurred and prosecutions taken under the Animal Health Act 1981 and incidences of disease in imported animals for the year 2009” (“the 2009 Report”),² being reports by DEFRA to Parliament based on returns to DEFRA by local authorities, shows the following:

Year	Total number of prosecutions	Prosecutions relating to farm animals	Prosecutions relating to domestic animals	Prosecutions resulting in a disqualification on order	Prosecutions resulting in a custodial sentence
2008	58	53	4 (plus 1 unknown)	23	9 (of which 2 suspended)
2009	70	64	6 (plus one unknown, note 1 prosecution was for both domestic and farm animals)	29	16 (of which 8 suspended)

15. The longest custodial sentence noted was 12 months at item 25 of the 2008 Report; in this case a number of offences arose in relation to sheep and cattle. A custodial sentence (suspended) and 10-year disqualification was given at item 165 of the 2009 Report relating to the neglect and suffering of eight dogs and the operation of an unlicensed pet shop.
16. The RSPCA will also have conducted many cases in respect of domestic animals and details of these have been published by their prosecutions department.³

Seizure of animals in distress

17. There were two reported cases of exercise of the new power of seizure introduced by section 18 of the Act. This power enables seizures of animals in distress by the police or local authority inspectors and an application to a Magistrates’ Court for disposal of the animal by sale or gift or destruction of the animal. The applicant’s costs can be awarded against the original owner.

1 Published by the Department for Environment, Food and Rural Affairs/Welsh Assembly Government. Product code PB13222

2 Published by Animal Health on behalf of the Department for Environment, Food and Rural Affairs / Welsh Assembly Government. Product code AHRH0001

3 RSPCA Prosecutions Annual Report 2009

18. The Act was considered in the High Court twice in relation to the extension of time-limit for bringing proceedings for summary offences in section 31 of the Act (3 years overall limit, 6 months from when the prosecutor “thinks” he has sufficient evidence). In **R v [Paul] Johnson** [2009] EWHC 2702 (Admin), where a racehorse (*Hans Christian*), was put down following alleged improper care by the defendant, the proceedings were commenced 6½ months after the RSPCA received vital evidence but only 5½ months after the Prosecution Case Manager considered the evidence. At appeal it was found that the case was not out of time (i) at [33] “there is no principle that knowledge in a prosecutor [RSPCA] begins immediately any employee has the relevant knowledge ... (ii) at [33] “[that the prosecutor] should have opportunity [time] ... to consider whether there is sufficient evidence to justify a prosecution”. In **RSPCA v Ian King** [2010] EWHC 637 (Admin) the High Court held that the RSPCA had not “[complied] with the statutory requirements in form and substance [for the document submitted to be] treated as a statutory certificate [extending the time limit]” at [11].

Preliminary assessment of the Act

19. In order to provide an assessment of the Act we have contacted a range of different groups, including those who regularly use and enforce the Act. A list of these organisations can be found at Annex 2.
20. We asked these organisations to provide information on how effective they believe the Act has been since its commencement and if they think the Act has achieved its original objectives.

General views of the Act

21. Across the responses, there has been a general view that the Act has achieved its principle objective of improving the general standard of animal welfare. It is felt to be a significant improvement on previous legislation and is working well in practice.
22. The general criticisms of the Act can be characterised in three ways:
- Enforcement of the Act
 - Introduction of secondary legislation
 - More needs to be done to raise public awareness of what is expected of them as pet owners. In Wales, this has been addressed through the 3 year Companion Animal Welfare Enhancement Scheme programme (CAWES)
23. On enforcement, some respondents commented that while the powers provided in the Act provide a framework which enables the standard of welfare to be raised, its full potential has not been realised. It is less clear how these respondents considered that enforcement could be made more effective. The most significant barriers appeared to be members of the public who needed to be better informed concerning good animal husbandry, enforcers who could be better trained, varying standards between local authorities and a judicial system that sometimes failed to prioritise cases where animals had been seized and enforcement agencies were incurring expenses in having to look after these animals. Although it is anticipated that guidance issued to the courts earlier this year in handling cases involving animals will encourage courts to expedite cases whenever possible.
24. Many respondents were disappointed that some of the developments in secondary legislation that had originally been envisaged in the Act’s Regulatory Impact Assessment have not been taken forward. The strength of feeling on this point varied from those that simply felt that the effectiveness of the Act had as a result been weakened to those who felt that because of a paucity in secondary legislation and codes, the Act had not met its original objectives at all. However, the latter views were in the minority.

25. Many respondents considered that more needed to be done to not only educate the public on their new responsibilities in terms of a duty of care, but also to raise awareness of the Act's existence altogether along with awareness of the different agencies which enforce the Act. Some organisations commented that a broader education programme on the duty of care and what constitutes good animal welfare could lower the number of prosecutions under the Act. Wales has led a successful 3 year partnership programme working with local authorities, third sector bodies giving effective education and training, forum developments, special project research and discovering what the welfare concerns are in Wales through baseline assessments. This has led to evidence based policy development especially on dog breeding.

Views of specific sections of the Act

26. The following section outlines specific points that have been raised by stakeholders. These are grouped under the headings used in the Explanatory Notes of the Act:

Introduction – Sections 1 to 3 (sets out the scope of the Act and defines the different categories of animal to which the Act applies).

Section 1 – Animals to which the Act applies

27. The omission of invertebrates in the Act has been raised as a concern. Some respondents considered that the way that sentience had been assessed should be reviewed in the light of the recent EU review of the welfare of animals used in scientific procedures. The Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes was published on 20 October 2010 in Official Journal L276,p.33.
28. Some respondents also felt it may be necessary to revisit the definition of animal in terms of exotic species covered by the Act and those which require extra “protection” in order to guarantee the standards of welfare necessary.

Section 3 – Responsibility for animals

29. It is felt that the definition of responsibility at section 3 has been successful.

Prevention – Sections 4 to 8 (set out the offences relating to cruelty and animal fighting)

Section 4 – Unnecessary suffering

30. The introduction of the cruelty offence at section 4 is believed to have simplified and updated previous legislation.

Section 5 – Mutilation

31. This section has been positively received and is seen as a potentially useful tool, particularly in the context of “status dogs”.

Section 6 – Tail Docking

32. A number of respondents raised the issue of tail docking (for non-therapeutic reasons). There are concerns that local authorities are not obliged to investigate what is believed to be “questionable” docking and there is a belief that the number of prosecutions for illegal docking indicates that it is an ongoing problem. Some of the respondents believe that the legislation was to some extent being undermined by those who allowed docked dogs to compete in dog shows and be advertised for sale as working dogs. There was also concern over apparent confusion on the obligation of the owners (the differing legislation across the devolved bodies) and this added to enforcement difficulties.

Promotion of welfare – Sections 9 to 12 (set out specific offences which relate to the promotion of welfare.

Section 9 – Duty of person responsible for animal to ensure welfare

33. The RSPCA, who are the principal agency responsible for the day to day enforcement of the Act, consider that Section 9, has made a significant contribution to raising welfare standards by allowing them to take action in circumstances which were not addressed in previous legislation. They have reported that the courts clearly take Section 9 offences extremely seriously. The Society has obtained 293 convictions for Section 9 offences between the implementation of the Act and August 2010. Even though the animals might not have suffered, the circumstances of those cases prosecuted by the Society have been of such a nature and quality to adequately demonstrate an animal was likely to suffer.
34. A typical example of a successful prosecution brought by the RSPCA concerns two dogs kept in unsatisfactory conditions. Both were accommodated in a yard littered with old furniture, debris, faeces and urine. One was anchored to a chain that was too short to allow him to lie down. The second dog just had an old crate to lie on. The RSPCA Inspector, who made repeat visits to the premises, considered that the conditions were deteriorating. The owners were convicted of an offence under Section 9 and were each disqualified from keeping animals (except goldfish) for life and ordered to perform 200 hours of community service.
35. In addition 496 welfare cases have been dealt with by the issue of an RSPCA non statutory caution without bringing a prosecution. Case studies include:-
 - A Springer spaniel more than twice its ideal weight.
 - A Yorkshire terrier with severely matted hair.
36. In both of these cases a prosecution could not have been brought under the legislation that applied prior to the Act.
37. A number of respondents raised concerns over the use of wild animals in circuses – they argue that the duty of care within section 9 of the Act is not sufficient to bring about the necessary welfare improvements.
38. Other respondents had similar concerns regarding inadequate protection for the exotic animals that are sold for the pet industry in the UK. Their view is that foreign businesses can supply live exotic animals to UK suppliers, but are not subject to British animal welfare law. Exotic animals cannot have their behavioural needs met in a domestic setting. End-purchasers of these animals may be subject to the Act but with no means of identifying them, chances of detection of violations are remote.

Abandonment

39. The Act repealed the Abandonment of Animals Act 1960, which made it an offence to abandon an animal. During the passage of the Act, Parliament was assured that section 9 of the new Act could be used as a replacement for the Abandonment of Animals Act. However, some respondents have commented that there is a lack of guidance as to how abandonment relates to the duty of care which is set out in the Act.

Section 10 – Improvement notices

40. Welsh Assembly Government Report that as, but for 21 out of the 22 local authorities in Wales, for the two years to the 31 March 2010, some 148 improvement notices were issued. Soundings taken of local authorities in England confirm a similar level of usage in England.

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

41. Some respondents said that they felt this clause had a number of exemptions, which overly restrict the occasions when an offence is committed. To date, no prosecutions have been made using this clause.

Licensing and registration – Section 13 (confers power to make regulations)

42. A number of respondents raised the issue of a lack of continuity in the systems and processes used by local authorities when it comes to licensing. They do not believe there are consistent standards in place against which the suitability (or not) of an individual or premises to hold a license for a particular purpose is assessed.
43. Similarly, it was noted that in the original Regulatory Impact Assessment for the Act that revenues from activities such as licensing could be ring-fenced to support effective animal welfare resources for local authorities, but this has not happened

Codes of Practice – Sections 14 to 17 (contain details of the purpose and function of Codes of Practice along with details of how they will be made, amended and revoked)

44. The most frequent comment for this section is that the introduction of Codes of Practice has not been consistent with the timetable described in the Act's original Regulatory Impact Assessment. A number of the areas which were due to have regulations/codes of practice drawn up for them have been raised as areas of concern. The most common were:
- Pet shops and pet vending over the internet – it is felt that the problem of highly variable pet shop license standards has not been addressed as envisaged. The Pet Animals Act 1951 is in need of revision as intended under the Act's secondary legislation as it does not reflect modern animal welfare practice, or new ways of selling animals.
 - Regulation of livery yards.
 - Animal sanctuaries and animal boarding establishments.
 - Breeding and sale of dogs – it is felt that current legislation in this field is confusing and uncoordinated.
45. There is also concern about the availability of the Codes of Practice and the knowledge of the general public of their existence – so much so that a respondent has commented that *“they have failed in their objective of communicating to a wide body of the pet-owning public exactly what they should be doing for their pets' welfare”*. A number of respondents commented that current codes need to be made more widely available in their printed format. In Wales, codes of practice have been widely disseminated through the Companion Animal Welfare Enhancement Scheme (CAWES) programme and still remain available via the internet.
46. Other concerns include the general lack of codes for different species and the lack of training for local authority inspectors, such that some are not aware of how the code ought to be implemented. A number of groups expressed concern over Defra's priorities in introducing secondary legislation and in the choice of animals covered by Codes of Practice for e.g. private ownership of primates, but no Code of Practice for rabbits (in England).
47. A concern was also raised that there are a number of Codes of Practice available which predate the Act. Where the Act has updated legislation, the relevant Codes of Practice need to be updated simultaneously to reflect those changes.

Animals in distress – Sections 18 to 21 (describe the powers which an inspector or constable has to enter premises and remove animals which are in distress)

Section 18 – Powers relating to animals in distress

48. There is some lack of clarity around whether a certificate referred to in section 18(5) has to be written or not and the use of written certificates should be recommended while there is still doubt.

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

49. A number of respondents considered that the courts needed guidance on their power to remove a person's private property without a criminal conviction.

50. Concerns were also raised over the length of time it takes for the processes in s.20 and 21 regarding magistrates' court orders relating to animals taken into possession under s.18. It was considered that the current procedure causes delays and this could result in unnecessary suffering for animals. It was suggested that better training/guidance for magistrates would help.

Section 26 – Inspections in connection with licences and Section 27 – Inspection in connection with registration

51. The intent of the entry powers provisions in section 26 (Inspection in connection with licences) and section 27 (Inspection in connection with registration) were to provide the inspection system for any comprehensive licensing or registration regime introduced under any provision of the Act in relation to section 26 and in relation to section 27 only, any comprehensive licensing or registration regime created under section 13. No such comprehensive licensing or registration regime has yet been introduced. The entry and inspection powers in sections 25 and 26 replicate in a general way the entry and inspection powers available in the five Acts mentioned in section 13(8) (a)-(e) but additionally impose a "24hrs notice requirement" in relation to premises used as domestic dwellings. Section 13(8) (a)-(e) provides that the SoS can by regulations repeal the sections of five Acts listed which require licences, (in every Act that section is 1(1)). Doing so would obviously be linked to the creation of a licensing or registration regime under the Act. Para 19(2) of Schedule 1 of the Act adds the power to repeal other remaining sections of the five Acts e.g. the entry powers.

Other

52. Some respondents referred to a need for greater clarity over which authorities are responsible for enforcing different parts of the Act. It was suggested that Inspectors would generally benefit from more guidance.

53. The varying standards in enforcement were frequently raised by respondents. A high proportion of respondents commented that local authorities are not obliged to enforce the Act and it was suggested that this weakens the effectiveness of the Act.

54. There was also a general criticism that courts appeared to be unwilling to utilise the full extent of the powers available to them, e.g. offenders are very rarely banned from keeping animals for life.

55. Some respondents raised the question of the national enforcement database that was originally envisaged in the regulatory impact assessment. This has not been introduced; consequently there is not a single, comprehensive set of data regarding the enforcement of the Act. There are no means of either the public or enforcement authorities reviewing patterns of enforcement action, over time, by local authority or even by region. It was argued that the lack of a mechanism to share data leads to ineffective enforcement.
- The RSPCA noted that some courts have expressed regret that more serious sanctions are not available for dog/animal fighting offences. They would like to see the parts of the Act related to the use of video recordings implemented.
 - Local Government Regulation stressed that Councils have incurred significant costs associated with actions under the Act – in Wales this has also occurred especially in the equine sector, even though in the original regulatory impact assessment it was anticipated that councils would not have significant associated costs.
 - The Commoners associations noted that systems were in place before the 2007 regulations and welfare of de-pastured stock remains satisfactory. Their view is that no prohibitive costs have been borne as a result of the regulations applying to livestock kept on common land.
 - Another respondent felt that tightening regulations on transport of animals would help prevent internet sales and improve animal welfare in general.

Conclusion

56. Through informal consultation with a number of different groups, it has been possible to gain an impression of how the Act is seen to have functioned by those who regularly use it. While each group had differing views on what aspects of the Act had worked well and where it could be improved, there were also a number of areas where there was a broad consensus of views.
57. The main criticisms of the Act focused on three specific issues: the way in which it has been enforced, the delay in introducing the secondary legislation that had originally been envisaged and the lack of public awareness surrounding the new responsibilities for pet owners and the functions of the Act.
58. However, while many respondents thought that there are a number of areas in which the Act has not fulfilled its potential, there was also broad agreement that the Act had genuinely had a positive impact on animal welfare. It has successfully brought together a number of different pieces of legislation into a comprehensive whole providing a duty of care for those responsible for animals. The Act has also introduced a preventative measure which has allowed action to be taken without animals suffering unnecessarily.
59. In conclusion, it is agreed that there is still more to do in terms of achieving higher standards of animal welfare in the UK, but the Act does provide a suitable framework for doing so and has already resulted in an improvement in animal welfare. The Act has ultimately achieved its objectives of harmonising farm and companion animal welfare and consolidating and simplifying animal welfare legislation.

Annex I

Defendants proceeded against at magistrates' courts and found guilty at all courts for offences under the Animal Welfare Act 2006 (for 2007 to 2009) and the Protection of Animals Act 1911 (for 2005 to 2009), England & Wales⁽¹⁾⁽²⁾⁽³⁾

England and Wales	Defendants													
	Offence	Statute	Year						Year					
			2005		2006		2007		2008		2009			
		Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	
Cruelty to Animals	Not specified	1,061	843	981	758	1,040	851	243	186	21	21			
Animal Welfare Act														
Causing, permitting or failing to prevent unnecessary suffering	SS.4 & 32(1)	*	*	*	*	24	22	832	635	1,169	896			
Carrying out, permitting, causing to be carried out or failing to prevent prohibited procedure on a protected animal.	SS.5 & 32(1)	*	*	*	*	-	-	3	2	4	3			
Removing or causing or permitting or failing to prevent removal of dog's tail other than for medical treatment	SS.6(1) & (2) & 32(1)	*	*	*	*	3	3	34	30	19	17			
Failure to certify working dog before 3 months old; showing dog with a removed tail; knowingly giving false information to a vet about giving of S.6 certificate	SS.6(8), (9) & (12) & 32(4)	*	*	*	*	-	-	-	-	-	-			
Administration of poisons etc to a protected animal	SS.7 & 32(1)	*	*	*	*	-	-	-	-	1	1			
Offences relating to animal fights	SS.8 & 32(1)	*	*	*	*	-	-	5	5	16	9			
Failing to ensure needs of animal are met as required by good practice	SS.9 & 32(2)	*	*	*	*	8	8	130	91	157	103			
Selling animal to person under 16	SS.11 & 32(4)	*	*	*	*	-	-	-	-	-	-			
Carrying on activity without authority of S.13 licence or carrying on unregistered S.13 activity	SS.13 & 32(2)	*	*	*	*	-	-	1	1	-	-			
Intentionally obstructing person exercising power conferred by this section relating to an animal in distress	SS.18(12) & 32(4)	*	*	*	*	-	-	-	-	-	-			
Breach of a disqualification imposed after conviction of specified offences	S.34(9)	*	*	*	*	1	1	21	20	40	36			
TOTAL (BOTH ACTS)		1,061	843	981	758	1,076	885	1,269	970	1,427	1,077			

* Not applicable

(1) The figures given in the table on court proceedings relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

(2) Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

(3) Excludes court data for Cardiff magistrates' court for April, July, and August 2008.

Source – Justice Statistics Analytical Services within the Ministry of Justice

Our ref – 458-10

Annex 2 – List of consultees

The following organisations and individuals have provided their views on the effectiveness of the Animal Welfare Act 2006:

- Animal Health
- Anti-docking Alliance
- Bill Swann
- Blue Cross
- British and Irish Association of Zoos and Aquariums (BIAZA)
- British Veterinary Association (BVA)
- Companion Animal Sector Council
- Companion Animal Welfare Council
- Council for Docked Breeds
- Dog Advisory Council
- Dogs Trust collated views from a number of dog/cat stakeholders.
- Farm Animal Welfare Council
- Farmers Union of Wales
- Federation of Cumbria Commoners
- Graham Capper (Wrexham County Borough Council)
- Graham Thurlow
- Horse Trust collated views from a number of groups.
- Ian Millington (Denbighshire County Council)
- Local Government Regulation
- The Magistrates' Association
- National Farmers Union (NFU) who collated response for both NFU and NFU Cymru
- New Forest Commoners' Defence Association
- People for the Ethical Treatment of Animals (PETA)
- Professional Koi Dealers Association
- Royal College of Veterinary Surgeons (RCVS)
- Royal Society for the Prevention of Cruelty to Animals (RSPCA)
- World Horse Welfare



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone Fax & E-Mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

The Parliamentary Bookshop

12 Bridge Street, Parliament Square,
London SW1A 2JX

Telephone orders/ General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: bookshop@parliament.uk

Internet: <http://www.bookshop.parliament.uk>

TSO@Blackwell and other Accredited Agents

Customers can also order publications from

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

ISBN 978-0-10-179822-8



9 780101 798228