

BILL NO. 27

(as passed, with corrections)



*2nd Session, 63rd General Assembly
Nova Scotia
67 Elizabeth II, 2018*

Government Bill

Animal Protection Act

CHAPTER 21 OF THE ACTS OF 2018

The Honourable Keith Colwell
Minister of Agriculture

First Reading: September 13, 2018 ([LINK TO BILL AS INTRODUCED](#))

Second Reading: September 14, 2018

Third Reading: October 2, 2018

Royal Assent: October 11, 2018

An Act to Protect Animals and to Aid Animals in Distress

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the Animal Protection Act.

2 (1) In this Act,

(a) "abandoned" means, in respect of an animal, that the animal appears to be ownerless after reasonable steps have been taken to contact its owner or its custodian on behalf of the owner;

(b) "animal" means a non-human vertebrate;

(c) "Appeal Board" means the Animal Welfare Appeal Board established by this Act;

(d) "Chief Inspector" means the person appointed as Chief Inspector for the Society under this Act;

(e) "companion animal" means an animal other than a farm animal;

(f) "custodian", in respect of an animal, means

(i) an owner of the animal,

(ii) a parent of a minor who is an owner of the animal,

(iii) a person who has possession of the animal,

(iv) a person who has been given custody, care of, management of or control over the animal,

(v) a person who had possession of the animal or had custody, care of, management of or control over the animal immediately before the animal was seized, taken into custody or abandoned, or

(vi) any other person who at law has responsibility for the animal;

(g) "farm animals" include

(i) cattle, horses, sheep, swine, poultry, yaks and goats,

(ii) game farm animals including cervids, wild boar, bison, buffalo, ratites, llamas and alpacas,

(iii) foxes, chinchilla, mink, rabbits and waterfowl raised for agricultural purposes, and

(iv) any animal designated as a farm animal by the Minister;

(h) "former Act" means Chapter 33 of the Acts of 2008, the Animal Protection Act;

(i) "inspector" means

(i) a person appointed as an inspector responsible for inspections of companion animals under Section 12,

(ii) a person appointed as an inspector responsible for inspections of farm animals under Section 17, or

(iii) a person delegated powers and duties with respect to inspections under Section 16, to the extent of the delegation;

(j) "judge" means a judge of the Provincial Court of Nova Scotia;

(k) "Minister" means the member of the Executive Council charged by the Governor in Council with the administration of this Act;

(l) "parent", in respect of a child, means

(i) a birth or adoptive parent who has custody of or guardianship rights respecting the child,

(ii) a person who has stood in loco parentis to the child for a period of not less than one year and who has a continuing relationship with the child,

(iii) a legal guardian of the child, or

(iv) a person responsible for the care of the child and with whom the child resides;

(m) "peace officer" means a member of the Royal Canadian Mounted Police or Nova Scotia Provincial Police, a police officer appointed by a regional municipality, town or municipality of a county or district or a special constable appointed under the Police Act for the purpose of this Act;

(n) "premises" includes any place, building, vehicle, vessel, receptacle or thing where animals are kept or may be kept for

(i) slaughter,

(ii) food production,

(iii) fir or fibre production,

(iv) sale or adoption,

(v) hire,

(vi) exhibition,

(vii) sport,

(viii) transportation,

(ix) boarding,

(x) breeding,

- (xi) training,
- (xii) research activities,
- (xiii) companionship, or
- (xiv) any activity as determined by the Minister;

(o) "Provincial Inspector" means the person appointed as Provincial Inspector under this Act;

(p) "research activities" means the use of animals in

- (i) scientific investigation,
- (ii) scientific teaching or training, or
- (iii) the testing of products including medical devices and biological, chemical and pharmacological products,

that are subject to the standards and guidelines prescribed by the regulations with respect to the care of animals used in those activities;

(q) "Society" means the Nova Scotia Society for the Prevention of Cruelty;

(r) "veterinarian" means a person who is permitted to practise veterinary medicine in the Province under the Veterinary Medical Act.

(2) An animal is in distress if the animal is

- (a) in need of adequate care, food, water or shelter or in need of reasonable protection from heat or cold appropriate to the animal;
- (b) injured, sick, in pain or suffering undue hardship, anxiety, privation or neglect;
- (c) deprived of adequate ventilation, space, veterinary care or medical treatment;
- (d) abused;
- (e) subjected to cosmetic surgery as defined in Section 27;
- (f) kept in conditions that are unsanitary or unsafe so as to impair the animal's health, safety or well-being;
- (g) kept in conditions that contravene the standards of care prescribed by the regulations;
- (h) subjected by any person to being trained for or engaged in animal fighting; or
- (i) subjected to circumstances prescribed by the regulations.

3 (1) This Act does not apply to wildlife, as defined in the Wildlife Act, that is not in captivity.

(2) This Act does not apply to mandatory testing procedures undertaken by a research laboratory that are required by the Department of Health (Canada) or the World Health Organization or an organization prescribed in the regulations.

SOCIETY FOR THE PREVENTION OF CRUELTY

4 The Nova Scotia Society for the Prevention of Cruelty, continued under the former Act, is hereby continued as a body corporate.

5 The object of the Society is to provide effective means for the prevention of cruelty to and the promotion of the welfare of companion animals in the Province.

6 The membership of the Society consists of

(a) each person who was, immediately prior to the coming into force of this Act, a member of the Society; and

(b) each person who, after the coming into force of this Act, becomes a member of the Society in accordance with its by-laws,

as long as that person remains a member of the Society.

7 (1) Subject to subsections (5) and (6), the Society may carry on such activities and exercise such powers as are necessary or conducive to attaining its object and, without restricting the generality of the foregoing, may

(a) promote the humane treatment and welfare of companion animals and the principles of the Society;

(b) formulate and amend its constitution and make by-laws necessary to attain its object and, in particular, for the internal control, management and administration of its affairs, including by-laws

(i) respecting the manner in which persons are admitted to membership in the Society, establishing qualifications for membership and classes of members and determining the rights and duties of different classes of members,

(ii) prescribing dues,

(iii) respecting patrons,

(iv) establishing a Board of Directors, an Executive and committees, imposing and conferring duties and powers on the Board of Directors, the Executive and each committee and providing the manner in which the Board of Directors, the Executive and each committee is to be elected or appointed,

(v) respecting the manner in which the meetings of the Society, its Board of Directors, its Executive and its committees are called, the order of business and the procedure to be followed at each meeting and the method of voting at each meeting,

(vi) respecting the election or appointment of officers and volunteer agents of the Society and conferring and imposing rights and duties on them, and

- (vii) respecting the manner in which documents are executed by the Society; and
- (c) encourage and assist in the formation of branches of the Society throughout the Province.
- (2) Subject to subsections (5) and (6), each by-law of the Society in force immediately prior to the coming into force of this Act is a by-law of the Society until it is repealed or amended under this Act.
- (3) Subject to subsections (5) and (6), the constitution of the Society in force immediately prior to the coming into force of this Act is the constitution of the Society until it is amended or repealed under this Act.
- (4) The Society may delegate any of its powers to its Board of Directors.
- (5) The Board of Directors of the Society includes two members appointed by the Minister, who are employed in the civil service of the Province.
- (6) Annual general meetings of the Society are open to the public.
- 8 (1) Each branch of the Society in existence before the coming into force of this Act is continued as a body corporate.
- (2) Each branch of the Society continued or formed under this Act and registered with the Society
- (a) is a body corporate; and
- (b) has all the powers of the Society set out in clauses 7(1)(a) to (c).
- (3) The Society shall formulate the constitution, by-laws and policies of its branches.
- (4) A certificate purporting to be signed by an officer of the Society and certifying that a branch is registered with the Society is conclusive evidence that the branch is a body corporate under this Act.
- (5) The boundaries of the area for which a branch is continued or formed are as approved by the Society.
- (6) A branch of the Society ceases to be a body corporate upon being removed from the register of the Society in accordance with the by-laws of the Society.
- 9 The Society and each branch may exercise such powers as may be necessary to achieve its objects and, without restricting the generality of the foregoing, may
- (a) receive, acquire and hold gifts, grants, donations and legacies;
- (b) acquire by way of grant, gift, purchase, bequest, devise or otherwise, real and personal property and use and apply such property in the attainment of its objects;
- (c) buy, own, hold, lease, mortgage, sell and convey real and personal property; and
- (d) borrow money and mortgage its property or any part thereof to secure repayment thereof or performance of any obligation.

10 Each branch is subject to the control and direction of the Society and may, in accordance with the by-laws of the Society, be

- (a) dissolved by the Society; or
- (b) suspended by the Society or the Society's Executive.

ANIMAL WELFARE INSPECTIONS

11 (1) The Chief Inspector and inspectors appointed under subsection 12(1) are responsible for inspections of companion animals.

(2) The Provincial Inspector and inspectors appointed under Section 17 are responsible for the inspection of farm animals.

12 (1) The Board of Directors of the Society shall appoint a Chief Inspector and inspectors for the purpose of inspecting companion animals.

(2) The Chief Inspector must meet the minimum qualifications prescribed by the regulations.

(3) The Chief Inspector may not be a member of the Board of Directors of the Society or an officer of the Society.

13 (1) The Chief Inspector has

- (a) the powers and duties of an inspector of companion animals and the powers and duties prescribed in the regulations;
- (b) the power to establish qualifications, requirements and standards for inspectors of the Society;
- (c) the power to recommend persons to the Society for appointment as inspectors of the Society;
- (d) the power to recommend to the Society the revocation of the appointment of an inspector of the Society; and
- (e) the general power to oversee the inspectors of the Society in the performance of their duties.

(2) The Chief Inspector may formulate and co-ordinate the establishment of industry customs and codes of practice supporting the human treatment of companion animals.

14 (1) The Chief Inspector shall notify the Provincial Inspector of any reports received by the Chief Inspector or the Society respecting the welfare of a farm animal.

(2) The Provincial Inspector shall notify the Chief Inspector of any reports received by the Provincial Inspector respecting the welfare of a companion animal.

15 (1) The Society shall submit to the Minister an annual report in the form and at the time determined by the Minister disclosing all inspections and activities carried out by the Society, the Chief Inspector and inspectors of the Society for the year in respect of which the report is prepared.

(2) Within 60 days of receiving the report referred to in subsection (1), the Minister shall table the report in the Assembly or, where the Assembly is not then sitting, file the report with the Clerk of the Assembly.

(3) The Minister may disseminate an annual report of the Society at any time, whether or not it has been tabled in the Assembly or filed with the Clerk of the Assembly.

(4) The Society shall maintain written records of inspections respecting the welfare of companion animals and shall make the records available to the Minister upon request.

16 (1) The Minister is responsible for all inspections of farm animals under this Act.

(2) The Minister may delegate to any person any power conferred or duty imposed with respect to inspections.

(3) Where any question arises with respect to whether an animal is a farm animal, the Minister shall decide the question and the decision of the Minister is final and may not be appealed.

(4) The Minister may formulate and co-ordinate the establishment of industry customs and codes of practice supporting the human treatment of farm animals.

17 The Minister may appoint a Provincial Inspector and inspectors for the purpose of inspecting farm animals.

18 (1) No person may act as an inspector unless the person is appointed as a special constable under the Police Act.

(2) The Society may recommend an individual to the Minister for appointment or re-appointment by the Minister of Justice as a special constable under the Police Act or recommend that the appointment of such individual be revoked.

(3) The Minister may recommend an individual to the Minister of Justice for appointment or re-appointment as a special constable under the Police Act or recommend that the appointment of such individual be revoked.

(4) A person who is exercising the powers or performing the duties of an inspector shall, upon request, produce evidence of the person's authority to do so.

19 An inspector may

(a) inspect animals in relation to this Act;

(b) in the case of inspectors of companion animals, inspect and monitor on an ongoing basis facilities where companion animals are housed or handled including stables, kennels, retail stores, research laboratories and animal shows;

(c) in the case of inspectors of farm animals, inspect and monitor on an ongoing basis facilities where farm animals are housed or handled including stables, kennels, agricultural shows, research laboratories, farms, fur ranches, abattoirs and other agricultural operations;

(d) promote the humane treatment of animals; and

(e) where necessary or advisable, seek the aid of and co-operate with

- (i) peace officers,
- (ii) persons in the Civil Service,
- (iii) agricultural representatives,
- (iv) veterinarians, and
- (v) other relevant experts.

20 (1) For the purpose of ensuring compliance with this Act, the regulations or any order or directions made under this Act or the regulations, an inspector or peace officer may

(a) at any reasonable hour of the day or night, enter and inspect any premises, other than a private dwelling place;

(b) conduct any test;

(c) seize any animal or carcass to conduct tests;

(d) seize any animal in accordance with this Act;

(e) take samples; and

(f) take any action considered necessary or advisable by the inspector or peace officer.

(2) An inspector or peace officer may require any person in a private dwelling place to produce any animal on the premises, including from within the private dwelling place, for examination and, once the animal is produced, examine the animal to determine whether this Act is being complied with.

(3) An inspector or peace officer who, on reasonable and probable grounds, believes that

(a) there is an animal abandoned in a private dwelling place and the custodian cannot be found;

(b) an animal in a private dwelling place is in distress and the custodian cannot be found or refuses to produce the animal as required by subsection (2); or

(c) an animal in a private dwelling place is owned or possessed in contravention of a court order and the custodian cannot be found or refuses to produce the animal as required by subsection (2),

shall apply to a justice for a warrant or telewarrant to enter the private dwelling place for the purpose of carrying out the duties of the inspector or peace officer under this Act.

(4) Where an inspector or peace officer is of the opinion that an offence under this Act is being committed with regard to a research animal, the inspector or peace officer shall

(a) consult with, or be accompanied by, the chair of the animal care committee associated with that research; or

(b) consult with standards-setting agencies prescribed by the regulations or, where the facility in which the research animal is kept is part of the Canadian Council on Animal Care audit program, the Canadian Council on Animal Care, before taking any further action.

(5) The owner or person in charge of premises entered by an inspector or peace officer and any person found within the premises shall

(a) give the inspector or peace officer all reasonable assistance necessary to enable the inspector or peace officer to carry out any action authorized under this Act;

(b) comply with all reasonable directions of the inspector or peace officer;

(c) accompany the inspector or peace officer during an inspection when requested; and

(d) furnish the inspector or peace officer with any information the inspector or peace officer requires to carry out any action authorized under this Act.

(6) An inspector or peace officer may

(a) require the production of any records relating to the care of an animal and remove those records temporarily for the purpose of making copies;

(b) take photographs or recordings of the premises, including animals, or any activity taking place around the premises;

(c) make any inspection or inquiry necessary or advisable to ascertain whether this Act or the regulations, or any order or direction made under this Act or the regulations, are being complied with; and

(d) exercise such other powers as may be necessary or incidental to the carrying out of the functions of the inspector or peace officer under this Act or the regulations.

(7) For the purpose of this Act, an inspector or peace officer may require the operator of a vehicle or vessel that is in motion to stop and, where an inspector or peace officer signals or requests an operator of a vehicle or vessel to stop, the operator shall comply immediately and shall not move the vehicle or vessel until permitted to do so by the inspector or peace officer.

(8) An inspector or peace officer and every person lawfully accompanying an inspector or peace officer may, while carrying out duties under this Act, enter on or pass over any land or water, whether enclosed or not, without being liable for trespass and without the owner of the property having the right to object.

21 (1) Where an inspector believes on reasonable and probable grounds that a person is in violation of a condition of a court order to not own or possess an animal, the inspector may seize the animal.

(2) Where an animal has been seized under subsection (1), the inspector shall provide a written seizure of animal notice to the person owning or possessing the animal and advise the person of the right to appeal to the Appeal Board.

22 (1) No person shall interfere with or obstruct a person in the exercise of the person's powers or performance of the person's duties under this Act.

(2) No person shall knowingly furnish an inspector or peace officer with false information or neglect or refuse to furnish information required by the inspector or peace officer in the exercise of the powers or the performance of the duties of the inspector or peace officer under this Act or the regulations.

23 (1) An inspector or peace officer may give directions orally or in writing for the carrying out of duties under this Act or the regulations and may require that such directions be carried out within such time as is specified.

(2) Directions given orally under subsection (1) must be confirmed in writing as soon as practicable.

24 (1) Where the Society takes up a practice or tolerates a situation incompatible with its mandate with respect to inspections under this Act, the Governor in Council may, on the recommendation of the Minister, appoint a person as Administrator of the Society for the purpose of inspections under this Act and the Administrator has all the powers of the Society under this Act for the purpose of inspections.

(2) An Administrator appointed under subsection (1), shall be paid such remuneration and expenses that the Governor in Council determines.

(3) On the appointment of an Administrator under subsection (1) the Society's authority under this Act is suspended until such time as is determined by the Governor in Council.

25 Subject to the approval of the Governor in Council, the Minister may make an order

(a) dividing the Province into districts for the purpose of enforcing this Act in relation to companion animals;

(b) appointing, subject to their consent, one or more individuals, organizations or municipalities in place of the Society to carry out any or all of the functions or duties of the Society under this Act for a district or for the Province; and

(c) assigning such powers, functions and duties as are necessary to the individual, organization or municipality appointed under clause (b) for the purpose of this Section.

PROTECTING THE WELFARE OF ANIMALS

26 (1) No person shall cause an animal to be in distress.

(2) No custodian of an animal shall permit the animal to be in distress.

(3) The custodian of an animal is not continuing to permit the animal to be in distress if the custodian takes immediate appropriate steps to relieve the distress.

(4) An animal is not caused or permitted to be in distress if the distress, pain, suffering or injury results from

(a) an activity carried on in the practice of veterinary medicine;

(b) slaughter in accordance with the laws of the Province or of Canada governing slaughter practices; or

(c) an activity prescribed by the regulations.

(5) Subsection (3) does not apply if

(a) the custodian of an animal has demonstrated a pattern of causing or permitting any animal to be in distress;

(b) the custodian of an animal has failed to comply with Section 20 or 22 or has expressed unwillingness to take corrective action;

(c) the custodian of an animal has been previously convicted of an offence under this Act or under any sections of the Criminal Code (Canada) related to animal cruelty; or

(d) the inspector determines that the distress is of a nature or has surrounding circumstances requiring immediate seizure to alleviate suffering or to preserve life.

(6) Subject to the regulations, no person shall sell to a purchaser any cat or dog that has not been issued a certificate of health by a veterinarian, in the form prescribed by the Minister, whether or not the purchaser has waived the requirement for a certificate.

27 (1) No person shall perform, or permit to be performed, cosmetic surgery on an animal unless it is an accepted activity under Section 28.

(2) Cosmetic surgery means surgery performed solely for the purpose of altering the appearance of an animal, without a medical benefit, and includes the following, including any similar alterations:

(a) tail docking;

(b) tail nicking, setting or blocking;

(c) ear cropping;

(d) devocalization or debarking;

(e) onychectomy (declawing);

(f) dewclaw removal;

(g) any other prescribed alteration or surgery.

28 Notwithstanding Section 27, the following accepted activities regarding surgery or alterations to an animal do not contravene this Act:

(a) surgery performed by a veterinarian to treat an injury or disease of an animal or for other medical reasons determined by a veterinarian to be necessary or beneficial to the health of the animal;

(b) agricultural practices carried out in accordance with the National Farm Animal Care Council codes of practice or any other codes of practice prescribed by the regulations.

29 (1) An animal is deemed to be in distress if it is abandoned by its custodian in a manner that is likely to cause distress.

(2) Where an animal appears to be abandoned, an inspector or peace officer may enter upon the lands and premises on the lands where the animal is located to seize the animal.

(3) Where an animal has been seized under subsection (2), the inspector or peace officer shall take reasonable steps to find the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner and issue the owner of the animal or the custodian on behalf of the owner a written seizure of animal notice advising of the right to appeal to the Appeal Board.

(4) Where more than one person is identified as an owner of a seized animal, the Minister or the Society, as the case may be, may select one of those persons to be responsible for care of the animal until such time as those persons determine the question of ownership.

30 (1) Where an inspector or peace officer finds or has evidence of an animal in distress and the custodian of the animal continues to permit the animal to be in distress, is not present and cannot be found promptly or the conditions listed in subsection 26(5) exist, the inspector or peace officer may take such action as the inspector or peace officer considers necessary to relieve the distress including

(a) seizing the animal;

(b) arranging for any necessary transportation, food, water, care, shelter or medical treatment; and

(c) delivering the animal into the custody of the Society, the Minister or a suitable caretaker.

(2) Where an inspector or peace officer seizes an animal under this Section, the inspector shall, at the earliest practicable time, issue the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner, a written seizure of animal notice advising of the right to appeal to the Appeal Board.

(3) Before taking action under subsection (1), an inspector or peace officer shall take reasonable steps to find the custodian and inform the custodian of the animal's distress.

(4) Where the owner or custodian of the animal is not present and cannot be found and informed of the animal's distress, the inspector, the peace officer or the Society or the Minister into whose custody the animal is delivered shall take reasonable steps to find the owner or, where the owner cannot be found, the custodian on behalf of the owner and issue to the owner or custodian on behalf of the owner a written seizure of animal notice advising of the right to appeal to the Appeal Board.

(5) Where an inspector or peace officer has reasonable and probable grounds for believing that an animal is in distress in or upon any premises other than a private dwelling place, the inspector or peace officer and every person lawfully accompanying the inspector or peace officer may, with or without a warrant, and by force if necessary, enter the premises and search for the animal and exercise the powers conferred on the inspector or peace officer under this Act with respect to any animal in distress found therein.

(6) Before entering any premises under this Section, an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the premises and endeavour to obtain the co-operation of the owner or person in charge in entering the premises.

(7) Where an animal is not in distress, but the inspector has reasonable and probable grounds for believing that an animal has been abused or tortured by the actions of its custodian, the inspector may seize the animal.

(8) Where an animal has been seized under subsection (7), the inspector shall take reasonable steps to find the owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner and issue the owner or custodian on behalf of the owner a written seizure of animal notice advising of the right to appeal to the Appeal Board.

(9) Where an inspector or peace officer uses force in entering premises, the inspector or peace officer shall use no more force than is reasonably required under the circumstances.

31 (1) An inspector or peace officer who is lawfully in premises under this Act or a warrant issued under this Act may seize anything that is produced or that is in plain view if the inspector or peace officer has reasonable grounds to believe that the thing

(a) will provide evidence of an offence under this Act; or

(b) was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

(2) An inspector or peace officer may remove a thing that is seized or may detain it in the place where it is seized.

(3) An inspector or peace officer shall inform a person from whom a thing is seized of the reason for the seizure and shall give the person a receipt for it as soon as is practicable.

32 (1) In this Section, "critical distress" means distress in an animal of such nature that

(a) immediate veterinary treatment cannot prolong the animal's life; or

(b) prolonging the animal's life would result in the animal suffering unduly.

(2) Where, in the opinion of

(a) a veterinarian; or

(b) where a veterinarian is not readily available, a peace officer,

an animal is in critical distress, the veterinarian or peace officer may euthanize the animal or cause the animal to be euthanized.

(3) Where suffering of an animal referred to in subsection (1) is not unduly prolonged thereby, a peace officer or, where the Society or the Minister has custody of the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the

owner of the animal or, where the owner cannot be found, the custodian on behalf of the owner and notify the owner or custodian on behalf of the owner of the intent to euthanize the animal.

(4) Where an animal may be euthanized under subsection (2) and the owner of the animal or the custodian on behalf of the owner cannot be found, a peace officer or a veterinarian acting under the direction of a peace officer may euthanize the animal without the owner's or the custodian's consent.

33 (1) The Minister or the Society, as the case may be, may sell, give away or euthanize an animal that has been seized if no appeal has been filed under Section 37 by the required deadline.

(2) Where no appeal has been filed under Section 37 in respect of a seized animal, the owner of the animal or the custodian on behalf of the owner shall pay for expenses properly incurred by the Society and by the Minister.

(3) Where an appeal has been heard and the seizure decision upheld, the owner of the animal or the custodian on behalf of the owner shall pay for expenses properly incurred by the Society and by the Minister.

34 Where an animal is in the custody of the Society or the Minister and the owner of the animal or a custodian on behalf of the owner cannot be found within seven days after the animal has come into the custody of the Society or the Minister, the Society or the Minister, as the case may be, may sell, give away or euthanize the animal.

35 For the purpose of this Act, where the owner of an animal cannot be found, notice given to a custodian of the animal is sufficient notice to the owner.

36 (1) The Animal Cruelty Appeal Board established by the former Act is continued under this Act and is renamed the Animal Welfare Appeal Board.

(2) The Appeal Board is composed of not more than 10 members appointed by the Governor in Council for such terms as the Governor in Council determines.

(3) The Governor in Council shall appoint one of the members of the Appeal Board as Chair and another as Vice-chair.

(4) A proceeding before the Appeal Board must be heard and determined by a panel consisting of one or more members of the Appeal Board assigned by the Chair or Vice-chair.

(5) The Appeal Board may, subject to this Act and the regulations, make rules of procedure for the conduct and management of appeals.

(6) Members of the Appeal Board shall receive such remuneration and be reimbursed for such reasonable expenses incurred by them in carrying out their duties as are determined by the Governor in Council.

(7) A vacancy on the Appeal Board does not impair the ability of the Appeal Board to act.

(8) A panel of one or more members of the Appeal Board may hear an appeal and exercise and perform the duties of the Appeal Board in relation to the appeal.

37 (1) Subject to subsection (3), an owner of a seized animal or a custodian on behalf of the owner may, within seven days of receiving a seizure of animal notice, appeal the seizure and request the return of the animal by notice in writing on the form prescribed by the Minister, to the Appeal Board.

(2) A notice under subsection (1) must set out the reason for the appeal.

(3) A notice under subsection (1) must be accompanied by payment of the fee prescribed by the regulations.

(4) This Section does not apply if an order under Section 41 is in force with respect to the animal.

(5) Within the number of days prescribed by the regulations after receipt of a notice of appeal, the Chair of the Appeal Board shall notify the appellant and the Society or the Minister, as the case may be, of the time, date and place at which the Appeal Board will hear the appeal.

(6) The date fixed for a hearing must be not more than the number of days prescribed by the regulations after receipt of the notice of appeal by the Chair of the Board and the decision of the Board must be issued within the number of days prescribed by the regulations after receipt of the notice of appeal by the Chair.

(7) An appeal made under this Section does not stay the operation of an order seizing an animal.

38 (1) At a hearing, the appellant and the Society or the Minister, as the case may be, are entitled to hear the evidence, call and cross-examine witnesses, present arguments and be represented.

(2) A hearing is open to the public unless the Appeal Board is of the opinion that

(a) the interests of a person other than the appellant may be detrimentally affected if the hearing, or part of the hearing, is not held in private; and

(b) the desirability of avoiding public disclosure of financial, personal or similar matters necessitates holding the hearing in private.

(3) The Appeal Board may, on the request of the appellant or a witness whose testimony is of a confidential or personal and sensitive nature, order that no person publish the identity of the witness or any information that could disclose the identity of the witness.

(4) The Appeal Board may order that no person disclose the identity of the appellant or witness.

(5) After a hearing, or at any time with the consent of the person making the appeal and the Society or the Minister, as the case may be, the Appeal Board may order that

(a) an animal seized inappropriately be returned to its owner or to the custodian on behalf of the owner at no cost; or

(b) an animal seized appropriately be retained by or returned to the Society or Minister to be sold, given away or euthanized.

(6) Notice of a decision of a panel of the Appeal Board under subsection (5) must be given to the appellant and the Society or the Minister, as the case may be, within the number of days prescribed by the regulations after the hearing and written reasons for the decision must be given to those persons within the number of days prescribed by the regulations after the hearing.

(7) The Appeal Board may make a decision or summary of a decision available to the public.

(8) Where the Appeal Board makes a decision or summary of a decision available to the public, the Appeal Board may omit any information that

(a) would detrimentally affect the interests of a person other than the appellant;

(b) would disclose financial, personal or similar matters;

(c) is of a confidential, personal and sensitive nature; or

(d) would disclose the identity of the appellant or a witness.

39 (1) Where an owner of an animal or a custodian on behalf of an owner appeals the seizure of the animal under Section 37, the Society or the Minister shall retain custody of the animal until a decision on the appeal has been issued.

(2) Where an animal is given to a person to care for the animal on behalf of the Society or the Minister, the animal remains in the custody of the Society or the Minister, as the case may be.

(3) Where an animal in the custody of the Society or the Minister gives birth, any animal born to the animal is also in the custody of the Society or the Minister, as the case may be, and this Act applies *mutatis mutandis* to the animal born as if the animal born is an animal taken or delivered into custody under this Act along with the animal that gave birth.

(4) Expenses payable to the Society or the Minister under this Act maybe recovered as a debt in any court of competent jurisdiction.

(5) Where an animal is sold or given away under this Act,

(a) the manner of selling or giving away the animal is at the discretion of the Society or the Minister, as the case may be; and

(b) the person to whom the animal is sold or given away owns the animal free of any encumbrance.

(6) Where an animal is sold under this Act,

(a) the expenses properly incurred by the Society or the Minister under this Act with respect to the animal are a first lien on the proceeds of the sale; and

(b) any surplus remaining after the expenses referred to in clause (a) are paid must be held in trust for or paid to the owner of the animal.

40 (1) Every veterinarian who, in the course of practising veterinary medicine, has found reasonable grounds to believe that a person or custodian of an animal has caused or permitted an animal to be in distress shall report that belief to the Society with respect to companion animals and to the Minister with respect to farm animals.

(2) No action lies against a person for reporting anything under subsection (1) unless the reporting is done falsely and maliciously.

41 (1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person to deliver an animal to the custody of the Society, in the case of a companion animal, or the Minister, in the case of a farm animal, or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person if, in the opinion of the judge, the person is not fit to care for the animal.

(2) Notwithstanding anything in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody under subsection (1).

(3) Any money received by the Society or the Minister as a result of selling an animal under subsection (2) must be returned to the person who was ordered under subsection (1) to deliver the animal to the custody of the Society or the Minister or the owner of the animal, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

(4) The Society or the Minister may cause an animal delivered into custody under subsection (1) to be euthanized only if the Society or the Minister, after reasonable attempts, is unable to sell or give the animal to a suitable person.

GENERAL

42 (1) Any person who contravenes this Act, the regulations or an order issued under this Act or the regulations is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not more than \$25,000 and, in default of payment, to imprisonment for a term not exceeding six months, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(b) for a second offence, to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term not exceeding six months, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment; or

(c) for a third or subsequent offence, to a fine of not more than \$75,000 and, in default of payment, to imprisonment for a term not exceeding two years, or to imprisonment for a term not exceeding two years, or to both fine and imprisonment.

(2) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, a judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just in the circumstances for securing the person's good conduct and for preventing the person from repeating the

same offence or committing other offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(3) Where a person is found guilty of an offence under this Act or the regulations, the judge may make an order restraining the person from having ownership, custody, care or control of animals for such period as is specified in the order.

(4) A person who is found guilty of an offence with respect to an animal under this Act or the regulations may be ordered by the court to pay to the Society or Minister, as the case may be, the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to the animal and, where the animal is euthanized, its euthanasia.

43 The prosecution of an offence contrary to this Act or the regulations may not be commenced more than two years after the date on which the act or omission that is alleged to constitute the offence occurred.

44 No action lies against any person acting in good faith for anything done under this Act.

45 Where a conflict exists between this Act and any other enactment, other than Section 193 of the Agriculture and Marketing Act, the Animal Health and Protection Act and Sections 7 and 10 of the Sheep Protection Act, this Act prevails.

46 (1) The Minister may make regulations

(a) respecting standards of design, construction and maintenance of animal shelters, enclosures, facilities, restraints and tethers;

(b) respecting standards of care with which animals are to be maintained;

(c) prescribing circumstances that cause animals to be in distress;

(d) defining or prescribing unacceptable animal practices, modifications or mutilations;

(e) respecting the transportation of animals;

(f) prescribing or adopting acceptable codes of practice respecting animals;

(g) respecting standards for the sale of companion animals;

(h) determining what are reasonable steps to find and notify an owner of an animal or a custodian on behalf of the owner;

(i) determining reasonable expenses to be charged to the owner of an animal or the custodian on behalf of the owner, taken into custody under this Act for transportation of the animal, food, care, shelter and veterinary medical treatment provided to the animal and for the euthanasia of the animal;

(j) prescribing annual report requirements and times for the purpose of subsection 15(1);

(k) prescribing activities for the purpose of subclause 2(1)(n)(xiv);

(l) prescribing standards-setting agencies for the purpose of clause 20(4)(b);

- (m) prescribing activities for the purpose of subsection 26(4);
 - (n) prescribing exemptions from the prohibition under subsection 26(6).
- (2) No regulation may be made under subsection (1) that is not consistent with the Canadian Council on Animal Care Guidelines for the scientific use of animals.
- (3) A regulation made under this Section may be of general application or may apply to such animals, such class or classes of animals, such class or classes of places or such class or classes of matters or things as the Minister determines and there may be different regulations with respect to different animals, different classes of animals, different classes of places and different classes of matters or things.
- (4) No action may be taken against a person under this Act if the person complies with the Guidelines referred to in subsection (2).
- (5) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the Regulations Act.
- 47 (1) The Governor in Council may make regulations
- (a) prescribing acceptable methods of euthanasia;
 - (b) prescribing societies, organizations, institutions or persons to which this Act applies for the purpose of enforcing this Act and determining the extent to which this Act applies to the society, organization, institution or person;
 - (c) prescribing persons who have a duty to report suspected animal distress;
 - (d) exempting research activities from the requirements of subsection 30(1) if the research activities are being conducted under an audit program approved by the Canadian Council on Animal Care or an organization prescribed in the regulations;
 - (e) prescribing procedures and periods for appeals to the Appeal Board;
 - (f) prescribing further powers and duties of the Chief Inspector, the Provincial Inspector or inspectors;
 - (g) prescribing minimum qualifications for persons appointed as the Chief Inspector, the Provincial Inspector or inspectors;
 - (h) respecting the licensing and standards of pet establishments, including catteries, kennels, day and overnight care facilities, breeding facilities, animal rescue facilities and retail stores;
 - (i) respecting fees or ranges of fees for appeals;
 - (j) prescribing fees for the purpose of this Act;
 - (k) defining any word or expression used but not defined in this Act;
 - (l) further defining any word or expression defined in this Act;

(m) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) No regulation may be made under subsection (1) that is not consistent with the Canadian Council on Animal Care Guidelines for the scientific use of animals.

(3) A regulation made under this Section may be of general application or may apply to such animals, such class or classes of animals, such class or classes of places or such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different animals, different classes of animals, different classes of places and different classes of matters or things.

(4) No action may be taken against a person under this Act if the person complies with the Guidelines referred to in subsection (2).

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the Regulations Act.

48 The former Act is repealed.

49 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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