

CHAPTER 33 OF THE ACTS OF 2008  
amended 2010, c. 45; 2011, c. 50; 2013, c. 8; 2014, c. 40

**An Act to Protect Animals and  
to Aid Animals that are in Distress**

*NOTE* - Sections 31, 32 and 33 are subject to proclamation. See Section 42.

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(The table of contents is not part of the statute)

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### Short title

**1** This Act may be cited as the *Animal Protection Act*. 2008, c. 33, s. 1.

### Interpretation

- 2 (1)** In this Act,
- (a) “animal” means a non-human vertebrate;
  - (b) “Board” means, unless the context requires otherwise, the Animal Cruelty Appeal Board established by this Act;
  - (c) “Chief Inspector” means the person appointed as Chief Inspector for the Society by the Society pursuant to this Act;
  - (d) “farm animal” includes
    - (i) cattle, horses, sheep, swine and poultry,
    - (ii) game farm animals including cervids, wild boar, bison, buffalo, ratites, llamas and alpacas,
    - (iii) foxes, chinchilla and mink raised for fur production,
    - (iv) rabbits raised for meat production,
    - (v) fin fish raised in an aquaculture site for commercial purposes, and
    - (vi) any animals designated as farm animals in the regulations;
  - (e) “former Act” means Chapter 22 of the Acts of 1996, the *Animal Cruelty Prevention Act*;
  - (f) “judge” means a judge of the provincial court;

(g) “Minister” means the member of the Executive Council charged by the Governor in Council with the administration of this Act;

(ga) “non-farm animals” means animals other than those set out in clause (d);

(h) “peace officer” means a member of the Royal Canadian Mounted 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;

(i) “premises” includes any place, building, vehicle, vessel, receptacle or thing;

(j) “Provincial Inspector” means the person appointed as Provincial Inspector by the Minister pursuant to this Act;

(k) “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 prescribed standards and guidelines with respect to the care of animals used in those activities;

(l) “Society” means the Society for the Prevention of Cruelty;

(m) “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, for the purpose of this Act, where the animal is

(a) in need of adequate care, food, water or shelter or in need of reasonable protection from injurious heat or cold;

(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) kept in conditions that are unsanitary or that will significantly impair the animal’s health or well-being over time;

(f) kept in conditions that contravene the standards of care prescribed by the regulations; or

(g) abandoned by its owner or by a person in charge of the animal in a manner that causes, or is likely to cause, distress resulting from any or all of the factors listed in this subsection.

(3) Where the owner or person in charge of an animal is a minor, the minor's parent or guardian is deemed to be the owner or person in charge for the purpose of this Act. 2008, c. 33, s. 2; 2011, c. 50, s. 1; 2013, c. 8, s. 2; 2014, c. 40, s. 1.

#### **Exceptions from application of Act**

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

(2) For greater certainty, nothing in this Act overrides Section 193 of the *Agriculture and Marketing Act* or Sections 7 and 10 of the *Sheep Protection Act*.

(3) This Act does not apply to mandatory testing procedures undertaken by a research laboratory that are required by Health Canada or the World Health Organization or an organization prescribed in the regulations. 2008, c. 33, s. 3.

### SOCIETY FOR THE PREVENTION OF CRUELTY

#### **Society continued**

4 The Nova Scotia Society for the Prevention of Cruelty, as continued under the former Act, is hereby continued as a body corporate. 2008, c. 33, s. 4.

#### **Object**

5 The object of the Society is to provide effective means for the prevention of cruelty to animals in the Province. 2008, c. 33, s. 5.

#### **Membership**

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. 2008, c. 33, s. 6.

#### **Powers**

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 both the humane treatment of animals and the principles of the Society;

(b) seek the aid of, when necessary, and co-operate with municipal police forces, the Royal Canadian Mounted Police, agricultural representatives and veterinarians;

(c) 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) fixing dues,

(iii) respecting patrons,

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

(vii) respecting the manner in which documents are executed by the Society;

(d) 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 pursuant to 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 pursuant to 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 must be open to the public. 2008, c. 33, s. 7.

### **Branches**

**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 pursuant to 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 (d).

(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.

(7) For the purposes of Sections 23 to 26 and 30, a reference to the Society includes a branch of the Society. 2008, c. 33, s. 8.

### **Powers of Society and branches**

**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 object;

(c) buy, own, hold, lease, mortgage, sell and convey real and personal property;

(d) borrow money and mortgage its property or any part thereof to secure repayment thereof or performance of any obligation. 2008, c. 33, s. 9.

**Control of branches**

**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 its executive committee. 2008, c. 33, s. 10.

## ANIMAL CRUELTY INSPECTIONS

**Chief Inspector**

**11 (1)** The Board of Directors of the Society shall appoint a Chief Inspector and inspectors for the purpose of inspecting animals other than farm animals.

**(2)** The Chief Inspector must meet the minimum qualifications prescribed in 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. 2008, c. 33, s. 11.

**Powers of Chief Inspector**

**12** The Chief Inspector has

- (a) the powers and duties of an inspector of the Society 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. 2008, c. 33, s. 12.

**Inspectors' powers**

**13** The Chief Inspector or another inspector appointed pursuant to subsection 11(1) may carry on such activities and investigations and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to animals other than farm animals and, without restricting the generality of the foregoing, may

- (a) investigate cases of cruelty to animals other than farm animals;

(b) inspect and monitor on an ongoing basis facilities where animals other than farm animals are housed or handled including stables, kennels, agricultural shows, pet shops, research laboratories and animal shows;

(c) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of animals other than farm animals. 2008, c. 33, s. 13; 2011, c. 50, s. 2.

#### **Notification respecting farm animal**

**14** The Chief Inspector shall notify the Provincial Inspector of any reports received by the Chief Inspector or the Society respecting cruelty to a farm animal. 2008, c. 33, s. 14.

#### **Annual report**

**15 (1)** The Society shall submit to the Minister an annual report in the form and at the time prescribed by the Minister disclosing all inspections, activities and investigations 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 sixty days of receiving the report referred to in subsection (1), the Minister shall table the report in the Assembly or, if the Assembly is not then sitting, shall 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 and investigations respecting cruelty to animals and shall make the records available to the Minister upon request. 2008, c. 33, s. 15.

**15A** *repealed 2011, c. 50, s. 3.*

#### **Investigations respecting farm animals**

**16 (1)** The Minister is responsible for all investigations of farm animals in distress.

**(2)** Where any question arises with respect to whether an animal is a farm animal the Minister shall decide and the decision of the Minister is final and may not be appealed. 2008, c. 33, s. 16.

#### **Provincial Inspector**

**17** The Minister may appoint a Provincial Inspector and inspectors for the purpose of inspecting farm animals. 2008, c. 33, s. 17.



**Powers of Minister**

**18** The Minister, or an inspector appointed under Section 17, may carry on such activities and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to farm animals and, without restricting the generality of the foregoing, may

- (a) investigate cases of farm animals in distress;
  - (b) 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;
  - (c) promote the humane treatment of farm animals;
  - (d) seek any necessary aid of, and co-operate with, municipal police forces, the Royal Canadian Mounted Police, agricultural representatives, veterinarians and other experts;
  - (e) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of farm animals.
- 2008, c. 33, s. 18; 2010, c. 45, s. 2.

**Inspection of premises**

**18A (1)** For the purpose of enforcing this Act and the regulations, an inspector or peace officer may at all reasonable times, subject to the regulations, inspect any premises, other than a private dwelling place, in which animals are kept for

- (a) slaughter;
- (b) food production;
- (c) sale;
- (d) hire;
- (e) exhibition;
- (f) sport;
- (g) transportation;
- (h) boarding;
- (i) breeding;
- (j) training;
- (k) research activities; or
- (l) any activity prescribed by the Governor in Council.

**(2)** Where an inspector or peace officer is of the opinion that an offence pursuant to this Act is being committed with regard to research animals, the inspector or peace officer shall

- (a) consult, 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 animals are kept is part of the Canadian Council on Animal Care audit program, the Canadian Council on Animal Care,

before taking any further action. 2011, c. 50, s. 4; 2013, c. 8, s. 3; 2014, c. 40, s. 2.

#### **Entry by inspector or peace officer**

**18AA (1)** For the purpose of ensuring compliance with this Act or the regulations, or any direction made pursuant to this Act or the regulations, an inspector or peace officer may, at any reasonable hour of the day or night, enter and inspect any premises, conduct any test, seize any animal or carcass to conduct tests, take samples and make any investigations considered necessary or advisable.

**(2)** Upon the request of an inspector or peace officer, the owner or a representative appointed by the owner shall accompany the inspector or peace officer during an inspection or investigation pursuant to subsection (1).

**(3)** An inspector or peace officer may

(a) require the production of any records relating to the animal care and remove them 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 an inspection, investigation or inquiry considered necessary to ascertain whether this Act or the regulations, or any direction made pursuant to this Act or the regulations, are being complied with;

(d) exercise such other powers as may be necessary or incidental to the carrying out of the functions of the inspector or peace officer pursuant to this Act or the regulations. 2010, c. 45, s. 3; 2011, c. 50, ss. 4, 5; 2013, c. 8, s. 4.

#### **No interference or obstruction - provision information**

**18B (1)** No person shall interfere with or obstruct a person in the exercise of the powers given to the person by this Act or the regulations.

**(2)** No person shall knowingly furnish an inspector or peace officer with false information or neglect or refuse to furnish information required by an inspector or peace officer in the exercise of the powers or the performance of the duties of an inspector or peace officer pursuant to this Act or the regulations. 2010, c. 45, s. 3; 2011, c. 50, s. 6.

**Directions of inspector or peace officer**

**18C (1)** An inspector or peace officer may give directions orally or in writing for the carrying out of this Act or the regulations and may require that such directions be carried out within such time as is specified.

**(2)** Directions given orally pursuant to subsection (1) must be confirmed in writing as soon as practicable. 2010, c. 45, s. 3; 2011, c. 50, s. 7.

**Compliance with directions**

**18D** A person shall comply with every direction given pursuant to this Act or the regulations and shall furnish any assistance required for the purpose of entering, inspecting or examining any premises or making an inquiry concerning any premises. 2010, c. 45, s. 3; 2013, c. 8, s. 5.

**Administrator may be appointed**

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

**(2)** An Administrator appointed pursuant to subsection (1) shall be paid the remuneration and expenses that the Governor in Council determines.

**(3)** On the appointment of an Administrator pursuant to subsection (1) the Society's authority under this Act is suspended until such time as is determined by the Governor in Council. 2008, c. 33, s. 19.

**Order appointing a person or organization in place of Society**

**20** Subject to the approval of the Governor in Council, the Minister may make an order, relating to non-farm animals,

(a) dividing the Province into districts for the purpose of enforcing this Act;

(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 pursuant to 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 pursuant to clause (b) for the purpose of this Section. 2014, c. 40, s. 3.

## PREVENTION OF CRUELTY TO ANIMALS

**Prohibitions**

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

**(2)** No owner of an animal or person in charge of an animal shall permit the animal to be in distress.

**(3)** For the purpose of subsection (2), the owner of an animal or the person in charge of an animal does not permit the animal to be in distress if the owner or person in charge takes immediate appropriate steps to relieve the distress.

**(4)** Subsections (1) and (2) do not apply if the distress, pain, suffering or injury results from an activity carried on in the practise of veterinary medicine, or in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter or an activity exempted by the regulations.

**(5)** Subsection (3) does not apply if the owner of an animal or the person in charge of an animal has demonstrated a pattern of causing or permitting any animal to be in distress.

**(6)** Subject to the regulations, no person shall sell to a purchaser any cat or dog that has not been certified to be in good health by a veterinarian, in the form prescribed by the regulations, whether or not the purchaser has waived the requirement for a certificate. 2008, c. 33, s. 21; 2011, c. 50, s. 8; 2013, c. 8, s. 6; 2014, c. 40, s. 4.

**Duties of owners of animals other than farm animals**

**22** A person who owns or is in charge of an animal other than a farm animal shall

(a) ensure that the animal has an adequate source of food and water;

(b) provide the animal with adequate medical attention when the animal is wounded or ill;

(c) provide the animal with reasonable protection from injurious heat or cold;

(d) not confine the animal to an enclosure or area with inadequate space, unsanitary conditions, inadequate ventilation or without providing an opportunity for exercise so as to significantly impair the animal's health or well-being. 2008, c. 33, s. 22.

**Abandoned farm animal**

**22A (1)** Where the Minister, or a representative of the Minister, suspects a farm animal has been abandoned and the farm animal's owner or custodian cannot be found, the Minister may inquire about the animal's ownership by publishing an advertisement in the Royal Gazette or in a newspaper circulated in the county

where the farm animal is located, once a week for two consecutive weeks, with a description of the farm animal and its location.

(2) Where no person is identified as the farm animal's owner or custodian within seven days after the last advertisement under subsection (1), the Minister, or a representative of the Minister, may enter upon the lands where the animal is located to take custody of the animal.

(3) The Minister may sell, give away or euthanize a farm animal that has been taken into custody under subsection (2).

(4) Where more than one person identifies himself or herself as the owner of the farm animal, the Minister may select one of those persons to be responsible for care of the farm animal until such time as those persons determine the question of ownership. 2011, c. 50, s. 9.

#### **When animal is found in distress**

**23 (1)** Where an inspector or peace officer finds an animal in distress and the owner or person in charge of the animal

(a) does not immediately take appropriate steps to relieve its distress; or

(b) is not present or cannot be found promptly,

the inspector or peace officer may, subject to this Act, take such action as the inspector or peace officer considers necessary to relieve the distress including, without restricting the generality of the foregoing,

(c) taking custody of the animal;

(d) arranging for any necessary transportation, food, water, care, shelter and medical treatment, or any one or more of them;

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

(2) Before taking action pursuant to subsection (1), an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the animal and, where the owner is found, shall endeavour to obtain the owner's co-operation to relieve the animal's distress.

(3) Where the owner of the animal is not present or not found and informed of the animal's distress, the inspector, the peace officer, the Society or the Minister in whose custody the animal is delivered, shall take reasonable steps to find the owner and inform the owner of the action taken.

(4) 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 the inspector or peace officer and a person lawfully accom-

panying 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 by this Section with respect to any animal in distress found therein without being liable for trespass and without the owner of the property having the right to object.

(5) An inspector or peace officer who, on reasonable and probable grounds, believes that there is an animal in distress in a private dwelling place shall obtain a warrant to enter the private dwelling place for the purpose of carrying out duties pursuant to this Section.

(6) Before entering any premises pursuant to 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 the person in charge.

(7) 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.

(8) An inspector or peace officer may at any reasonable time and, where the inspector or peace officer reasonably believes it is necessary to determine compliance with this Act,

(a) enter onto premises, other than a private dwelling place;

(b) 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

(c) once an animal is produced, conduct such examination of the animal as may be necessary to determine whether this Act is being complied with.

(9) The owner or person in charge of premises entered by an inspector or peace officer under this Section and any person found within the premises shall 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 and shall furnish the inspector or peace officer with any information the inspector or peace officer requires to carry out that action.

(10) 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. 2008, c. 33, s. 23; 2011, c. 50, s. 10; 2013, c. 8, s. 7; 2014, c. 40, s. 5.

**Power to seize**

**24 (1)** An inspector or peace officer who is lawfully in premises pursuant to this Act or a warrant issued under this Act may seize any thing 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 afford 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 on a form approved by the Minister. 2008, c. 33, s. 24; 2011, c. 50, s. 11.

**Animals in critical distress**

**25 (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)** *repealed 2011, c. 50, s. 12.*

**(3)** 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, a peace officer may euthanize the animal or have the animal euthanized.

**(4)** 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 and endeavour to obtain the owner’s consent to its euthanasia.

**(5)** Where an animal may be euthanized pursuant to subsection (3) and the owner does not consent to its euthanasia, a peace officer or a veterinarian acting under the direction of a peace officer may euthanize the animal without the owner’s consent. 2008, c. 33, s. 25; 2011, c. 50, s. 12.

**Payment of expenses and power to sell or give animal**

**26 (1)** Where an animal is delivered or taken into the custody of the Society or the Minister pursuant to this Act, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and inform the owner that the animal is in custody.

**(2)** The owner of an animal delivered or taken into the custody of the Society or the Minister pursuant to this Act shall, when requested to do so by the Society or the Minister, as the case may be, pay to the Society or the Minister, as requested, any expense incurred by the Society or the Minister with respect to the animal including, without restricting the generality of the foregoing, any expense incurred with respect to transportation, food, care, shelter or medical treatment provided for the animal and, where the animal is euthanized, its euthanasia.

**(3)** Where the Society or the Minister requires the owner to pay any of the expenses referred to in subsection (2) before return of the animal to the owner, those expenses are due and payable as soon as the request is made and before the animal is restored to the owner.

**(4)** Where the owner of an animal that is in the custody of the Society or the Minister is not found within seventy-two hours after the animal has come into the custody of the Society or the Minister, as the case may be, or, where found,

(a) does not, within seventy-two hours after the animal has come into the custody of the Society or the Minister, either pay or agree to pay to the Society or the Minister, as the case may be, within an agreed upon time the expenses properly incurred by the Society or the Minister with respect to the animal; or

(b) does not pay those expenses within the time agreed upon pursuant to this subsection,

the Society or the Minister, as the case may be, may sell or give the animal to any person who, in the opinion of the Society or the Minister, will properly care for the animal.

**(5)** Where an animal comes into the custody of the Society or the Minister pursuant to this Act and the inspector or other person who has taken or accepted custody of the animal is of the opinion, due to the animal's state or situation or previous actions of the owner, that the owner is not a fit person to care for the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and

(a) where the owner is found, shall notify the owner that the animal will not be returned, of the amount that is owed pursuant to subsection (6) and of the right to request a review; or

(b) where the owner is not found within seventy-two hours or, where found, does not request a review pursuant to subsection (7), may sell or give the animal to any person who, in the opinion of the



Society or the Minister, as the case may be, will properly care for the animal.

**(6)** Where notice is provided to an owner pursuant to subsection (5), and the owner does not request a review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

- (a) taking the animal into custody; or
- (b) keeping the animal in custody for the first seventy-two hours that the animal is in custody or until the animal is sold, given away or euthanized, whichever occurs sooner.

**(7)** Within seventy-two hours of being notified pursuant to clause (5)(a), the owner of the animal may request in writing that the decision that an animal will not be returned be reviewed by

- (a) the Board of Directors of the Society if the Chief Inspector, another inspector or another person has taken the animal into custody for the Society; or
- (b) the Minister if the Provincial Inspector, another inspector or another person has taken the animal into custody for the Minister.

**(7A)** The Society or the Minister, as the case may be, may, on review, reverse, uphold or vary the decision that an animal will not be returned.

**(8)** Notwithstanding subsection (7), where the Animal Cruelty Appeal Board has been established under Section 31, a review requested pursuant to this Section shall be decided by the Animal Cruelty Review Board.

**(9)** Where the owner requests a review pursuant to this Section, the Society or the Minister shall retain custody of the animal until a review decision has been made.

**(10)** Where the review decision reverses the decision under review, the owner is not responsible for the costs with respect to the animal that are incurred after the time the written request for review is filed.

**(11)** Where the review decision does not reverse the decision under review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

- (a) taking the animal into custody; or
- (b) keeping the animal in custody until the review decision is made.

**(12)** Where the Society or the Minister

(a) reverses the decision under review or varies it such that the animal is to be returned under certain conditions, the animal must be returned to the owner subject to any conditions imposed by the Society or the Minister, as the case may be; or

(b) does not reverse the decision under review, the Society or the Minister, as the case may be, may sell, give away or euthanize the animal.

(13) The Minister may, in the Minister's sole discretion, require that a review by the Minister pursuant to this Section proceed by way of written submissions only. 2011, c. 50, s. 13; 2013, c. 8, s. 8; 2014, c. 40, s. 6.

#### **Restriction where animal bears obvious identification and power to euthanize**

27 (1) Notwithstanding subsections 26(4), (5) and (6), where the animal bears an obvious identification tattoo, brand, mark, tag, licence or other device or identification prescribed in the regulations, the time limit referred to in that subsection is ten days instead of seventy-two hours.

(2) *repealed 2011, c. 50, s. 14.*

(3) Where an animal is in the custody of the Society or the Minister and, after the expiry of the time period required by Section 26 or this Section, the Society or the Minister, as the case may be, is unable to sell or give the animal to a suitable person, the Society or the Minister may cause the animal to be euthanized.

(4) Where an owner or custodian appeals the removal of the animal pursuant to Section 31, the Society or the Minister shall retain custody of the animal until a decision on the appeal has been issued. 2008, c. 33, s. 27; 2011, c. 50, s. 14; 2013, c. 8, s. 9.

#### **Animal in custody, sold or given away and expenses**

27A (1) Where an animal is given to a person to care for 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.

(2) 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.

(3) The expenses payable to the Society or the Minister pursuant to this Act may be recovered as a debt in any court of competent jurisdiction.

(4) Where an animal is sold or given away pursuant to 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 encumbrances.

(5) Where an animal is sold pursuant to this Act,

(a) the expenses properly incurred by the Society or the Minister pursuant to 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. 2011, c. 50, s. 15.

28 *repealed 2011, c. 50, s. 16.*

#### **Duty of veterinarian to report**

29 (1) Every veterinarian who, in the course of practising veterinary medicine, has found reasonable grounds to believe that an animal has been or is subject to neglect or abuse that threatens the animal's health, other than in the circumstances described in subsection 21(4), shall report that belief to the Society.

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

(3) This Section does not apply to the Provincial Inspector or inspectors appointed by the Minister. 2008, c. 33, s. 29.

#### **Order for delivery of animal into custody**

30 (1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person who claims to own or care for an animal to deliver the animal to the custody of the Society or a person designated by the Minister 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, that person is not fit to care for the animal.

(2) Notwithstanding anything contained in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody pursuant to subsection (1) but any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to 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.

(3) The Society or the Minister may cause an animal delivered into custody pursuant to 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. 2008, c. 33, s. 30; 2011, c. 50, s. 17.

**Custody of farm animal pending review or if no application for review**

**30A (1)** Where an application is made for judicial review of the actions taken by the inspector or peace officer under Section 23 with respect to a farm animal, the Minister may

- (a) retain custody of the animal; or
- (b) sell the animal.

**(2)** Where the animal is sold pursuant to clause (1)(b), the Minister shall hold the money received in the sale in trust pending the conclusion of the application for judicial review.

**(3)** Upon the conclusion of the application for judicial review, the Minister shall pay to the applicant

- (a) where the application is successful, the money received in the sale; or
- (b) where the application is dismissed, the money received in the sale less any amount to cover expenses properly incurred by the Minister with respect to the animal.

**(4)** The Minister may sell, give away or euthanize an animal that has been taken into custody under Section 23 if no application has been filed for judicial review by the required deadline. 2011, c. 50, s. 18.

**Animal Cruelty Appeal Board**

**31 (1)** There is hereby established a board known as the Animal Cruelty Appeal Board composed of not more than ten members appointed by the Governor in Council for such terms as the Governor in Council determines.

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

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

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

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

**(6)** A vacancy on the Board does not impair the ability of the Board to act. 2008, c. 33, s. 31.

**Appeal of removal of animal**

**32 (1)** Subject to subsection (3), an owner or custodian of an animal who considers himself or herself aggrieved by the removal of the animal under Section 23 may, within five business days of receiving notice of the removal, appeal the removal and request the return by notice in writing on the form prescribed by the Minister to the Chair of the Board.

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

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

**(4)** This Section does not apply if an order under Section 30 is in force with respect to the animal referred to in subsection (1).

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

**(6)** The date fixed for a hearing must be not more than the prescribed number of days after receipt of the notice of appeal by the Chair of the Board and the decision of the Board must be issued within the prescribed number of days 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 removing an animal. 2008, c. 33, s. 32.

**Authority of Minister if no appeal**

**32A** The Minister may sell, give away or euthanize an animal that has been taken into custody under Section 23 if no appeal has been filed under Section 32 by the required deadline. 2010, c. 45, s. 5; 2011, c. 50, s. 19; 2013, c. 8, s. 10.

**Hearing and decision**

**33 (1)** At a hearing, the person making the appeal 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)** 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, a panel of the Board may order that an animal removed under Section 23 be returned to its owner or custodian or retained by or returned to the Society or Minister, as the case may be, to be sold, given away or euthanized unless the animal has been euthanized.

**(3)** Notice of a decision of a panel of the Board under subsection (2) must be given to the person making the appeal and the Society or the Minister, as the case may be, within the prescribed number of days after the hearing and writ-

ten reasons for the decision must be given to those persons within the prescribed number of days after the hearing. 2008, c. 33, s. 33; 2010, c. 45, s. 6; 2011, c. 50, s. 20.

#### **Disposition of proceeds of sale**

**33A** Any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to subsection 33(2) to deliver the animal to the custody of the Society or the Minister, as the case may be, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal. 2010, c. 45, s. 7; 2011, c. 50, s. 21.

### GENERAL

#### **Special constables and inspectors**

**34 (1)** The Society may recommend individuals to the Minister for appointment by the Minister of Justice as special constables under the *Police Act* or recommend that the appointment of such individuals be revoked.

**(2)** The Minister may recommend individuals to the Minister of Justice for appointment as special constables under the *Police Act* for the purpose of this Act or recommend that the appointment of such individuals be revoked.

**(3)** No person may act as an inspector for the purpose of this Act unless the person is appointed as a special constable under the *Police Act*.

**(4)** A person who is acting as an inspector for the purpose of this Act shall, upon request, produce evidence of the person's appointment as an inspector. 2008, c. 33, s. 34.

#### **Offence and penalties**

**35 (1)** Any person who contravenes 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;

(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; or

(d) for a first offence involving harm to a law enforcement animal, 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.

**(1A)** Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, the 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).

**(2)** 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 custody, care or control of animals for such period of time as is specified by the court.

**(3)** A person who contravenes an order made by a judge pursuant to subsection (1A) or (2) is guilty of an offence and liable to the penalties set out in subsection (1).

**(4)** A person who is found guilty of an offence under this Act with respect to an animal may be ordered by the court to pay the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to that animal and, where the animal is euthanized, its euthanasia, to the Society or to the Minister. 2008, c. 33, s. 35; 2011, c. 50, s. 22; 2013, c. 8, s. 11.

#### **Limitation period for prosecution**

**35A** A 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. 2010, c. 45, s. 8.

#### **Prohibition against obstruction**

**36** No person shall obstruct a peace officer in the exercise of any powers pursuant to this Act. 2008, c. 33, s. 36.

#### **No action lies**

**37** No action lies against any person acting in good faith for anything done pursuant to this Act. 2008, c. 33, s. 37.

#### **Act prevails**

**38** Where a conflict exists between any provision of this Act and any other enactment, other than the *Animal Health and Protection Act*, the provisions of this Act prevail. 2008, c. 33, s. 38.

**Regulations by Minister**

- 39 (1)** The Minister may make regulations
- (a) respecting, with respect to animals, including non-farm animals for sale or that are impounded, boarded or kept for breeding, other than those animals referred to in clause 40(1)(a)
    - (i) standards of design, construction and maintenance of shelters, facilities, restraints and tethers,
    - (ii) standards of care with which the animals are to be maintained,
    - (iii) standards with respect to the sale of non-farm animals;
  - (aa) determining what are reasonable steps to find and notify an owner of an animal, other than an animal referred to in clause 40(1)(a);
  - (ab) determining reasonable expenses to be charged to the owner of an animal, other than an animal referred to in clause 40(1)(a), taken into custody pursuant to 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;
  - (ac) prescribing activities that are deemed to cause animals, other than those animals referred to in clause 40(1)(a), to be in distress;
  - (ad) prescribing or adopting acceptable codes of practice respecting animals, other than those animals referred to in clause 40(1)(a).
  - (b) prescribing annual report requirements and times for the purpose of subsection 15(1);
    - (ba) prescribing the form of the certificate to be issued for the purpose of subsection 21(6);
    - (bb) prescribing exemptions from the requirement under subsection 21(6);
  - (c) prescribing forms for the purpose of subsection 32(1).

**(1A)** No regulation may be made pursuant to subsection (1) that conflicts with standards established in nationally developed codes of practice for the care and housing of animals published by organizations prescribed in the regulations.

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



(1C) A regulation made pursuant to 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.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2008, c. 33, s. 39; 2013, c. 8, s. 12.

### Regulations

40

- (1) The Governor in Council may make regulations
- (a) respecting, with respect to farm animals kept for sale, animals kept for hire, exhibition, research or farm animals that are impounded, boarded or kept for breeding
    - (i) standards of design, construction and maintenance of facilities in which the animals are kept,
    - (ii) the standard of care with which the animals are to be maintained;
  - (b) defining what are reasonable steps to find and notify an owner of an animal referred to in clause (1)(a);
  - (c) determining reasonable expenses to be charged to the owner of an animal referred to in clause (1)(a) taken into custody pursuant to 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;
  - (d) prescribing acceptable methods of euthanasia;
  - (e) 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;
  - (f) exempting research activities from the requirements of subsection 23(1) if the research activities are being conducted pursuant to an audit program approved by the Canadian Council on Animal Care or an organization prescribed in the regulations;
  - (g) prescribing activities for the purpose of subsection 21(4);
  - (h) prescribing procedures and time periods for appeals to the Board;
  - (i) prescribing identification devices or methods for the purposes of subsection 26(1);

- (j) prescribing further powers and duties of the Chief Inspector, the Provincial Inspector or inspectors;
- (k) prescribing minimum qualifications for persons appointed as the Chief Inspector, the Provincial Inspector or inspectors;
- (l) prescribing procedures respecting appeals to the Board;
- (m) defining or prescribing unacceptable animal practices, modifications or mutilations;
- (n) prescribing activities that are deemed to cause animals referred to in clause (1)(a) to be in distress;
- (na) respecting the transportation of animals;
- (o) prescribing or adopting acceptable codes of practice respecting animals referred to in clause (1)(a);
- (p) respecting the licensing of animal care facilities and standards for such facilities;
- (q) prescribing fees or ranges of fees for appeals;
- (r) prescribing fees for the purpose of this Act;
- (s) defining any word or expression used but not defined in this Act;
- (t) further defining any word or expression defined in this Act;
- (u) the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

**(2)** No regulation may be made pursuant to subsection (1) that conflicts with standards established in nationally developed codes of practice for the care and housing of animals published by organizations prescribed in the regulations.

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

**(3A)** A regulation made pursuant to 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 standards referred to in subsection (2) or the Guidelines referred to in subsection (3).

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2008, c. 33, s. 40; 2013, c. 8, s. 13.

#### **Repeal of former Act**

**41 The former Act is repealed.** 2008, c. 33, s. 41.

#### **Proclamation**

**42** This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2008, c. 33, s. 42.

Proclaimed (except ss. 31, 32 & 33)	-	January 19, 2010
In force (except ss. 31, 32 & 33)	-	January 19, 2010
ss. 31, 32 & 33	-	not proclaimed