

**HOUSE USE ONLY**

**CHAIR:**

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1st SESSION, 65th GENERAL ASSEMBLY  
Province of Prince Edward Island  
64 ELIZABETH II, 2015

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**BILL NO. 2**

**Animal Welfare Act**

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Honourable J. Alan McIsaac  
Minister of Agriculture and Fisheries

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GOVERNMENT BILL

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MICHAEL D. FAGAN  
Queen's Printer  
Charlottetown, Prince Edward Island



**Animal Welfare Act**

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

**1. (1) In this Act**

Definitions

- (a) “abandoned” means, in respect of an animal, that the animal
  - (i) is apparently ownerless but is under control,
  - (ii) is found on rental premises after the expiration or termination of a tenancy agreement for the premises,
  - (iii) is found on premises after the animal’s owner has sold or vacated the premises,
  - (iv) has been left by the animal’s owner in the care of another person and has not been retrieved from the other person for more than four days after the expected retrieval time, or
  - (v) has been without the care or treatment required under section 3 for 24 hours or more because the animal’s owner is confined to a medical facility or correctional institution;

abandoned
  
- (b) “animal” means any species of animal with a developed nervous system, other than a human and an animal excluded under section 2;
 

animal
  
- (c) “animal protection officer” means
  - (i) a person appointed as an animal protection officer under section 17, and
  - (ii) any person who has the powers of an animal protection officer by virtue of his or her office;

animal protection officer
  
- (d) “Appeal Board” means the Appeal Board established under section 28;
 

Appeal Board
  
- (e) “assembly yard” means any place where commercial animals are assembled for shipment by any form of transportation;
 

assembly yard
  
- (f) “care” means, in respect of an animal, the care or treatment required under section 3;
 

care
  
- (g) “caregiver” means a person or organization selected by the Director to provide care to an animal that has been seized or taken into custody;
 

caregiver
  
- (h) “commercial animal” means any of the following animals:
  - (i) alpacas,
  - (ii) bison,
  - (iii) cattle,

commercial animal

	(iv) chinchilla raised for fur production,
	(v) deer,
	(vi) donkeys,
	(vii) horses,
	(viii) elk,
	(ix) foxes raised for fur production,
	(x) goats,
	(xi) llamas,
	(xii) mink raised for fur production,
	(xiii) mules,
	(xiv) poultry,
	(xv) rabbits raised for fur production or as a source of food,
	(xvi) sheep,
	(xvii) swine,
	(xviii) vicunas,
	(xix) wildlife that is not the property of Her Majesty in right of the province,
	(xx) any other animal prescribed as a commercial animal;
commercial market	(i) “commercial market” means a stockyard or auction market that is operated as a public market for the purchase or sale of commercial animals;
companion animal	(j) “companion animal” means any animal that is not a commercial animal;
companion animal retail store	(k) “companion animal retail store” means commercial premises where companion animals are kept and offered for sale to the public;
costs of care	(l) “costs of care” means any amount established under section 25 or the regulations to be the costs of care;
Director	(m) “Director” means the person appointed under section 15;
distress	(n) “distress” means, in respect of an animal, (i) any extreme anxiety, pain, suffering, harm or other impairment of health or well-being, (ii) any lack of care or treatment required under section 3, or (iii) any occurrence of an activity prohibited under section 4, 5 or 6;
license	(o) “license” means a license issued under this Act;
	(p) “Minister ” means the Minister of Agriculture and Fisheries;
owner	(q) “owner”, 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 or control of the animal,

(iv) a person who occupies the premises containing the animal, or  
 (v) a person who possessed or controlled the animal, or occupied the premises containing the animal, immediately before the animal was seized or taken into custody;

- (r) “parent” means parent  
 (i) a birth or adoptive parent who has custody or guardianship rights to a child,  
 (ii) a person, who has stood in *loco parentis* to a child for a period of not less than one year and who has a continuing relationship with the child,  
 (iii) a legal guardian of a child, or  
 (iv) a person responsible for the care of a child and with whom the child resides;
- (s) “police officer” means a police officer as defined in subsection 15(1) of the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1; police officer
- (t) “premises” includes any place, building, vehicle, vessel, receptacle or thing; premises
- (u) “prescribed” means prescribed by the regulations; prescribed
- (v) “Society” means the Prince Edward Island Humane Society; Society
- (w) “vehicle” means a vehicle as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5; vehicle
- (x) “veterinarian” means a person who is registered and licensed under the *Veterinary Profession Act* R.S.P.E.I. 1988, Cap. V-3 to practise veterinary medicine in Prince Edward Island; veterinarian
- (y) “wildlife” means wildlife as defined in the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1. wildlife
- (2) For greater certainty, a companion animal includes Companion animals  
 (a) a dog;  
 (b) a cat; and  
 (c) a chinchilla, rabbit, pot-bellied pig or any wildlife defined as “exotic” in the *Wildlife Conservation Act*, if kept for companionship or bred or raised for sale for companionship and not for an agricultural purpose.
- (3) If there is a conflict or inconsistency between a provision of this Act and a provision of the *Dog Act* R.S.P.E.I. 1988, Cap. D-13 or the *Stray Livestock Act* R.S.P.E.I. 1988, Cap. S-8.1 the provision of the *Dog Act* or the *Stray Livestock Act* shall prevail to the extent of the conflict or inconsistency. Conflict with *Dog Act* or the *Stray Livestock Act*

- Application 2. (1) This Act does not apply to
- (a) fish;
  - (b) a marine mammal;
  - (c) wildlife that is the property of Her Majesty in right of the province; and
  - (d) any animal excluded by the regulations.
- Game birds on shooting preserves (2) For greater certainty, this Act applies to game birds that are raised in captivity on a shooting preserve but ceases to apply once they are released for the purpose of hunting.

## PART 1

### PROPER CARE AND TREATMENT OF ANIMALS

#### Responsibilities for Animals

- Duties of owner 3. (1) Each owner of an animal shall ensure that
- (a) the animal is provided with adequate food and water sufficient to maintain the animal in a state of good health;
  - (b) the animal is provided with adequate veterinary care when the animal is injured or ill;
  - (c) the animal is provided with adequate shelter and reasonable protection from injurious heat or cold;
  - (d) the animal has a reasonable opportunity for exercise; and
  - (e) during any transport, the animal is transported in a manner that ensures its physical safety and general welfare.
- Improper confinement (2) Each owner of an animal shall ensure that the animal is not confined in a manner that will, over time, significantly impair the animal's health or well-being nor confined in premises
- (a) with inadequate space;
  - (b) with unsanitary conditions;
  - (c) with inadequate ventilation or lighting;
  - (d) that are not in a state of good repair;
  - (e) that expose the animal to anything unsafe for or toxic to the animal;
  - (f) with a texture or design that will bruise, cut or otherwise injure the animal; and
  - (g) that contain another animal that may have an adverse effect on the animal.
- Torture 4. (1) No person shall knowingly torture an animal.
- (2) No person shall
- (a) inflict on or cause unnecessary pain or suffering to an animal;
  - (b) prolong the unnecessary pain or suffering of an animal;
- Pain, suffering or harm

(c) inflict or cause significant impairment of an animal's health or well-being; or

(d) inflict or cause serious harm to an animal.

(3) No person shall cause or permit an animal to be subjected to  
 (a) conditions that cause the animal to suffer acute pain; or  
 (b) conditions that, unless immediately alleviated, will cause the animal serious harm or death.

Adverse conditions

**5.** (1) No person shall train an animal to fight with another animal or permit an animal that the person owns, or has possession or control of, to fight another animal.

Training or permitting animals to fight

(2) No person shall own or have possession of equipment or structures that are used in animal fights or in training animals to fight.

Owning animal fighting equipment, structures

(3) No person shall harm or cause harm to a dog, horse or other animal that works with peace officers in the execution of their duties, whether or not the animal is working at the time of the harm.

Harming law enforcement animals

**6.** (1) No person shall perform, or permit to be performed, cosmetic surgery on an animal.

Cosmetic surgery

(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:

Meaning of cosmetic surgery

(a) tail docking for dogs, horses or cattle;

(b) tail nicking and setting for horses;

(c) ear cropping for dogs;

(d) any other prescribed alteration or surgery.

(3) For greater certainty, the prohibition in subsection (1) does not prohibit surgery performed by a veterinarian to treat an injury to the animal or for other medical reasons beneficial to the animal's health.

Medical reasons

**7.** (1) Despite sections 3 to 6, the following activities, and any treatment, process or condition that occurs in the course of the following activities, shall not be considered to be a contravention of this Act:

Accepted activities

(a) an activity carried out in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry;

(b) the display or performance of an animal at a circus, exhibition or fair;

(c) zoological display;

(d) slaughter;

(e) veterinary medicine as defined in *Veterinary Profession Act*;

(f) training;

- (g) reasonable use of an animal for the protection of people or property;
- (h) sporting events;
- (i) trapping or hunting in accordance with the *Wildlife Conservation Act*;
- (j) research or teaching involving the use of animals;
- (k) control or elimination of pests or predators;
- (l) euthanasia;
- (m) any other prescribed activity.

Limits on accepted activities (2) An activity is acceptable under subsection (1) only if it is

- (a) consistent with a standard, code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
- (b) consistent with generally accepted practices or procedures for the activity and does not cause unnecessary suffering; or
- (c) otherwise reasonable in the circumstances and does not cause unnecessary suffering.

Prohibited criminal activities (3) For greater certainty, nothing in this Act permits any activity that is specifically prohibited under *Criminal Code* (Canada).

Report of contravention **8.** (1) A veterinarian shall, without delay, report to the Director any event that the veterinarian believes on reasonable grounds is a contravention of sections 3 to 6.

Additional information (2) The Director may require the veterinarian to provide the Director with additional information relevant to the event that is known by, or readily available to, the veterinarian.

#### Licensing

Companion animal retail store licenses **9.** No person shall operate a companion animal retail store unless the person holds a license issued by the Director for that purpose.

Application for license **10.** (1) An applicant for a license shall apply to the Director in accordance with the regulations.

Request for information and inspection (2) Before issuing a license, the Director may require

- (a) the applicant to submit any additional information the Director considers necessary; and
- (b) the applicant's premises to be inspected by an animal protection officer or veterinarian, or both, to determine whether the premises and their proposed operation are in compliance with this Act and the regulations.

(3) If an application is incomplete, the Director may <sup>Incomplete application</sup> refuse to accept it or put it on hold until it is complete.



- 11.** (1) The Director may issue or refuse to issue a license. Issuing or refusing a license
- (2) The Director may issue a license to an eligible applicant if the Director is satisfied that Decision to issue
- (a) the application has been made in accordance with subsection 10(1), including any inspection and information required under subsection 10(2);
- (b) the application accurately reflects the actual or proposed premises and its operation; and
- (c) the actual or proposed premises and their operation comply with the requirements of the regulations.
- (3) The Director may Terms and conditions
- (a) attach to a license any terms and conditions the Director considers appropriate, including limits on the number and type of animals that the license holder can keep on the licensed premises; and
- (b) at any time, vary or impose new terms and conditions on a license previously issued.
- (4) If the Director refuses to issue a license, the Director shall serve the applicant with written notice of the refusal, in accordance with the regulations, that includes Refusal
- (a) the reasons for the refusal; and
- (b) a statement advising that the suspension or revocation may be appealed to the Appeal Board.
- (5) The holder of a license shall comply with this Act, regulations and the terms and conditions of the license. Compliance
- (6) The holder of a license shall keep the license posted in the licensed premises in a clearly visible and prominent place. License to be displayed
- (7) A license is valid for a term commencing on the date it is issued and expiring on the 30th day of June following its issuance, unless it is sooner suspended or revoked. Term of license
- (8) A license is not transferable to another person or to other premises. License not transferable
- (9) The Director may Register of licenses
- (a) establish and maintain a register of licenses, in such written or electronic form as he or she considers appropriate; and
- (b) make information from the register available to the public.

#### Information and Records

- 12.** (1) Each license holder shall maintain or cause to be maintained such records as the Director may require or as may be prescribed, and Records

any animal protection officer shall have access to these records and to the premises at any reasonable time for the purpose of determining compliance with this Act or the regulations.

Request to produce (2) The Director may, at any time, require a license holder to produce or make available the records referred to in subsection (1) or such other information as the Director considers relevant to the license or the licensed premises.

Production (3) The license holder shall, within 15 days of being requested to do so by the Director, provide the information requested in subsection (2).

Duty to provide information 13. A requirement to report, provide or make available information under this Act applies even if (a) it requires the disclosure of personal information; (b) it requires the disclosure of proprietary information or confidential information; or (c) the disclosure of the information is restricted by law or otherwise.

PART 2

ADMINISTRATION

Powers of the Minister

Role of the Minister 14. (1) The Minister is responsible for the administration of this Act.

Engaging services (2) The Minister may engage, on such terms and conditions as the Minister considers appropriate, the services of such professional or technical persons, experts or organizations, as the Minister considers appropriate, to assist and advise the Minister on matters relating to the efficient administration and enforcement of this Act and the regulations.

Remuneration and expenses (3) At the direction of the Minister, a person engaged under subsection (1) who assists in the administration and enforcement of this Act, as an animal protection officer or in any other capacity, may be paid such remuneration or reimbursed for such expenses as the Minister directs.

Director

Appointment 15. (1) The Minister may, on such terms and conditions as the Minister may specify, appoint a Director to administer this Act and the regulations.

(2) The Director shall perform the functions assigned to the Director under this Act and such other functions as may be assigned by the Minister. Functions

(3) The Director is an animal protection officer by virtue of his or her office. Animal protection officer

(4) The Director may delegate, with or without conditions, any of his or her functions to any employee of the Department of Agriculture and Fisheries or any animal protection officer. Delegation

**16.** (1) Subject to the approval of the Minister, the Director may, by agreement in writing, appoint qualified persons or organizations to act as agents of the Director to perform functions on behalf of the Director. Agents

(2) The agreement appointing an agent shall specify any terms and conditions applicable to the appointment, including Conditions on appointment

- (a) the specific functions delegated;
- (b) the types of animals or geographic area to which the delegated functions apply;
- (c) any other limit on those functions; and
- (d) any terms or conditions related to costs or financial matters.

#### Animal Protection Officers

**17.** (1) The Minister may, on such terms and conditions as the Minister may specify, appoint persons as animal protection officers for the enforcement of this Act and the regulations. Appointment

(2) The following persons are eligible to be appointed as animal protection officers: Eligible persons

- (a) an employee of the Department of Agriculture and Fisheries;
- (b) a veterinarian;
- (c) a member or employee of the Society who is nominated by the Society;
- (d) any other person the Minister considers qualified to be an animal protection officer.

(3) The following persons, by virtue of their office, have all the powers of an animal protection officer: Other officers

- (a) a conservation officer appointed under the *Wildlife Conservation Act*;
- (b) a police officer; and
- (c) the provincial veterinarian appointed under the *Animal Health Act* R.S.P.E.I. 1988, Cap. A-11.1.

- Certificate of appointment (4) The Minister shall issue to every animal protection officer, other than a person referred to in subsection (3), a certificate of their appointment in such form as the Minister may determine.
- Production of certificate (5) Every animal protection officer who exercises powers under this Act shall, upon request, produce the certificate or other evidence of his or her appointment or authority.

### PART 3

#### INTERVENTIONS

##### Actions to Protect or Care for Animals

- Animal in distress **18.** (1) An animal protection officer who believes on reasonable grounds that an animal is in distress may do one or more of the following:
- (a) conduct an inspection in respect of the animal in accordance with section 31;
  - (b) make an order in accordance with section 19;
  - (c) seize or take into custody an animal in accordance with section 20;
  - (d) take any other reasonable action, including rescuing the animal and providing such medical care as the animal protection officer considers necessary to care for the animal or relieve its distress.
- Notification re wildlife (2) If the animal subject to this section is wildlife, the animal protection officer shall notify a conservation officer under the *Wildlife Conservation Act* of the animal.

##### Order to Take Action

- Order to animal's owner **19.** (1) An animal protection officer may make an order under this section if the officer has reasonable grounds to believe that
- (a) an animal is in distress; or
  - (b) the owner is not complying with any other provision of this Act, the regulations or an order under this Act.
- Provisions of order (2) The order may require an owner to take any action that the animal protection officer believes is necessary, including having the animal examined and treated by a veterinarian at the expense of the owner, in order to
- (a) relieve any distress of the owner's animal;
  - (b) ensure that the owner provides the care required under section 3;
  - or
  - (c) ensure the owner complies with any other provision of this Act, the regulations or an order under this Act.

- (3) The order shall include the prescribed information. Contents of order
- (4) The animal protection officer shall serve the order on the owner and provide a copy to the Director in accordance with the regulations. Serving the order
- (5) An owner who is served with an order under this section shall comply with the order in accordance with its terms. Compliance with order
- (6) An order expires one year after the date it is made, subject to Duration of order
- (a) any amendment or revocation of the order under subsection (7); or
- (b) the order being rescinded, or its expiry date is varied, by the Appeal Board.
- (7) If an animal protection officer believes that the circumstances that gave rise to the order have changed, he or she Amending or revoking order
- (a) may amend or revoke the order; and
- (b) shall serve written notice of the amendment or revocation on the owner in accordance with the regulations.

#### Custody or Seizure of Animals

- 20.** (1) An animal protection officer may take an animal into custody if he or she believes on reasonable grounds that it is abandoned. Abandoned animals
- (2) Subject to subsection 31(2), an animal protection officer may, without a warrant, seize or take an animal into custody if Custody or seizure of animal
- (a) the owner consents;
- (b) a veterinarian examines the animal and advises the animal protection officer that the health and well-being of the animal necessitates seizing or taking it into custody;
- (c) the owner of the animal cannot be located promptly and the animal protection officer inspects the animal and has reasonable grounds to believe that the animal is in distress;
- (d) the animal protection officer has reasonable grounds to believe that seizing or taking it into custody will protect the animal from immediate life-threatening distress;
- (e) an order respecting the animal has been made under section 19 and the order has not been complied with;
- (f) the animal protection officer has reasonable grounds to believe that making an order under section 19 will not eliminate or relieve the animal of its distress within a reasonable period of time; or
- (g) an order has been made under section 37, and seizing or taking it into custody is needed to ensure compliance with the number or type of animals allowed in the order.
- (3) An animal protection officer who seizes or takes an animal into custody may Care for animals

- (a) provide care to the animal; or  
 (b) put the animal under the control of a caregiver.
- Notice to Society for companion animals (4) If the animal seized or taken into custody is a companion animal, the animal protection officer shall, as soon as possible, notify the Society.
- Possession and charge of companion animal (5) When notified under subsection (4), the Society shall immediately take possession and charge of the companion animal and arrange for it to be  
 (a) sheltered at its premises, a veterinary clinic or the premises of a caregiver; and  
 (b) given such care as the Society considers reasonable in the circumstances.
- Provision of care (6) A caregiver or other person providing care to an animal that has been seized or taken into custody shall provide it with such care as the caregiver or other person considers reasonable in the circumstances or as the Director may direct.
- Changing caregiver (7) An animal protection officer may, where he or she considers it appropriate, remove an animal from the control of a caregiver and put the animal under the control of a different caregiver or otherwise deal with the animal in accordance with this Act.
- Euthanasia for animal **21.** Where an animal is seized or taken into custody, an animal protection officer may cause the animal to be euthanized if  
 (a) the owner consents;  
 (b) a veterinarian examines the animal and advises the animal protection officer that the animal is in such distress or is so ill or injured that it is incapable of being cured or healed or continuing to live without suffering; or  
 (c) a veterinarian is not available on a timely basis and two other individuals or an animal protection officer examine the animal and have reasonable grounds to believe that the animal is in such distress or is so ill or injured that it is incapable of being cured or healed or continuing to live without suffering.
- Notice to owner and Director **22.** (1) An animal protection officer shall, as soon as reasonably practicable and in accordance with the regulations,  
 (a) serve written notice on the owner describing any actions taken under this Part and, if the animal is seized or taken into custody, explaining the circumstances under which the animal may be subsequently sold, given away, placed for adoption or euthanized; and  
 (b) provide a copy of the notice to the Director.

(2) If related to an order served under subsection 19(4), the notice under subsection (1) may be served with or attached to the order.

Notice with order

#### PART 4

### DISPOSITION OF ANIMALS

#### Recovery of Animal

**23.** (1) The owner of an animal that has been seized or taken into custody under this Act may request the Appeal Board to order the animal's return by filing a notice of appeal under section 29.

Appeal by owner

(2) In addition to the right of appeal, the owner of an animal that has been seized or taken into custody may, within the prescribed time period, recover possession of the animal from the Director, or the Society for a companion animal in its possession and charge under this Act, by

Recovery from  
Director or Society

(a) satisfying the Director or Society that the conditions under which the animal was seized or taken into custody have been corrected; and

(b) paying the Director or Society the costs of care for which the owner is liable under subsection 25.

#### Disposal by Director or Society

**24.** (1) The Government of Prince Edward, or the Society for a companion animal in its possession and charge under this Act, is deemed to be the owner of the animal if

Deemed owner

(a) the owner consents;

(b) the owner fails to take possession of the animal in accordance with section 23;

(c) the owner was notified under section 22, the time for filing an appeal has elapsed and no appeal has been filed under section 29;

(d) seven days have elapsed after an animal was seized or taken into custody and the animal's owner has not been located, despite reasonable inquiries by the Director or Society, as the case may be; or

(e) the Appeal Board decides that Director or Society may dispose of the animal as they see fit.

(2) The Director, or the Society for a companion animal in its possession and charge under this Act, may sell, give away, place for adoption or euthanize the animal if

Disposition of  
animal

(a) the owner consents; or

(b) the Government of Prince Edward Island or Society becomes the owner of the animal under subsection (1).

Adoption of companion animal (3) The Society may, in accordance with the regulations, place a companion animal referred to in subsection (2) for adoption with a person approved by the Society.

Transfer of ownership (4) For greater certainty, an animal becomes the property of any person to whom the animal was sold, given or placed for adoption by the Director or the Society.

#### Costs and Related Matters

Owner liable for costs of care **25.** (1) The owner of an animal that has been seized or taken into custody is liable to pay to the Director, or the Society for a companion animal in its possession and charge under this Act, on demand an amount equal to

- (a) the costs of seizing or taking the animal into custody;
- (b) the costs of transportation, care and maintenance for the animal;
- and
- (c) any costs associated with veterinary care, including euthanizing the animal.

Director's statement of account (2) The Director shall provide to the owner of a commercial animal a statement of account setting out the costs of care for the animal claimed by the Director.

Society's statement of account (3) The Society shall provide to the owner of a companion animal a statement of account setting out the costs of care for the animal claimed by the Society.

Service of statement (4) The statement of account shall be served on the owner within seven days of seizing or taking the animal into custody.

Prescribed costs (5) The costs of care may be claimed in accordance with the prescribed costs.

Period of costs (6) For greater certainty, the costs of care may be claimed for the period commencing when the animal is seized or taken into custody until the earlier of the following:

- (a) the date the animal is recovered by the owner;
- (b) the date the Government of Prince Edward or the Society is deemed to be the owner of the animal under section 24;
- (c) the date the animal no longer needs care.

Proceeds of sale of commercial animal **26.** (1) Subject to subsections (2), if the Director sells a commercial animal, the proceeds of the sale shall be distributed as follows:

- (a) the Director shall retain an amount sufficient to pay the costs of care set out in the statement of account;
- (b) any balance of the sale proceeds shall be paid to the former owner of the animal.



(2) If the former owner of a commercial animal has not been located, despite reasonable inquiries, any balance of the sale proceeds referred to in clause (1)(b) shall be forfeited to the Government of Prince Edward Island. If owner not located

(3) If a companion animal is sold by the Society, the proceeds of the sale shall be retained by the Society. Proceeds of sale of companion animal

(4) The former owner of an animal sold by the Director or the Society remains liable for any portion of the costs of care set out in the statement of account not recovered from the proceeds of the sale. Unrecovered costs

(5) If the Director has reason to believe a creditor may have a security interest in a commercial animal sold by the Director, the Director may apply to the court for an interpleader order in respect of the balance of the sale proceeds over and above an amount equal to the costs of care for the animal. Creditor rights

**27.** (1) Any amount for which a person is liable for costs of care in respect of a commercial animal is a debt due by that person to the Government of Prince Edward Island. Costs recoverable as debt due

(2) The Minister may issue an order for the recovery of a debt due against the person who is liable for costs of care for a commercial animal. Minister's order

(3) An order for a debt due issued under subsection (2) may be filed with the Registrar of the Court of Appeal and the Supreme Court at any time 30 days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment. Registration of order

(4) The Government of Prince Edward Island has a lien on a commercial animal that has been seized or taken into custody for an amount equal to the debt due for that animal. Lien on commercial animal

(5) Any amount for which a person is liable for costs of care in respect of a companion animal is a debt due by that person to the Society. Costs recoverable as debt due to Society

(6) The Society has a lien on a companion animal that has been seized or taken into custody for an amount equal to the debt due for that animal. Lien on companion animal

(7) The Minister may, in accordance with the regulations, reimburse the Society for any costs of care outstanding under subsection (5) for more than the prescribed period, whereupon the full amount of those outstanding costs may be recovered from the owner in the same manner as a debt due to the Government of Prince Edward Island under this section. Reimbursement of Society

## PART 5

## APPEALS

## Appeal Board

Appeal Board	<b>28.</b> (1) For the purposes of this Act, the Minister shall appoint an Appeal Board composed of not fewer than three persons, of whom (a) one shall be a veterinarian; and (b) the others shall be knowledgeable in regard to animal husbandry or animal welfare.
Chair and vice-chair	(2) The Minister shall designate the chair and vice-chair of the Appeal Board.
Terms of office	(3) The term of office of a member of the Appeal Board is three years and a member is eligible for re-appointment.
Substitutes	(4) Where a member of the Appeal Board dies, resigns, or is removed from office for cause, the Minister may appoint a substitute member to serve the unexpired portion of the term of office of the member.
Remuneration and expenses	(5) Members of the Appeal Board shall receive such remuneration and expenses as may be prescribed.
Procedure	(6) Subject to the rules of natural justice, this Act and the regulations, the Appeal Board shall determine all matters of procedure in hearing an appeal.
Hearings	(7) The Appeal Board may hold a hearing orally or in writing, or partly orally and partly in writing, including an oral hearing held by means of a conference telephone call or by another method of communication that permits the Appeal Board and the parties to communicate with each other simultaneously.
Evidence	(8) The Appeal Board is not bound by the rules of evidence that apply to judicial proceedings.

## Making an Appeal to the Appeal Board

Orders and decisions for appeal	<b>29.</b> (1) The following orders or decisions may be appealed to the Appeal Board: (a) a decision of the Director to (i) refuse to issue a license, (ii) impose terms and conditions on a license, or (iii) suspend or revoke a license; (b) an order made under section 19;
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(c) a decision of the Director, an animal protection officer or the Society to seize an animal, take an animal into custody or euthanize an animal.

(2) Any person aggrieved by the order or decision referred to in subsection (1) may make an appeal to the Appeal Board in accordance with the regulations and the procedures of the Appeal Board. Making an appeal

(3) An appeal to the Appeal Board shall be made within seven days after the person is served with the order or decision. Time for appeal

(4) An appeal shall be made by written notice of appeal that Notice of appeal

- (a) is sent to the Appeal Board;
- (b) specifies the decision or order being appealed;
- (c) specifies the grounds of appeal on which the appellant relies and the nature of the relief sought; and
- (d) is accompanied by any submissions in support of the appeal.

(5) Upon receiving a notice of appeal, the Appeal Board shall promptly serve a copy of it on Copy to Director and Society

- (a) the Director; and
- (b) the Society, if the appeal relates to a decision of the Society.

(6) The parties to an appeal are Parties

- (a) the appellant;
- (b) the Director; and
- (c) the Society, if the appeal relates to its decision.

**30.** (1) The Appeal Board shall consider the submissions of the appellant and the order or decision appealed from within five days of receipt of the notice of appeal. Review

(2) The Appeal Board shall hear and determine appeals in accordance with its procedures and the regulations. Conduct of appeal

(3) The Appeal Board shall make a decision regarding the appeal within 14 days of receipt of the notice of appeal. Time for decision

(4) The Appeal Board may confirm, vary or rescind the order or decision being appealed. Decision

(5) In the case of an appeal of a decision to seize an animal, take an animal into custody or euthanize an animal, the Appeal Board may make any order that the Appeal Board considers appropriate in the circumstances, including Disposal of animal

- (a) an order that an animal be returned to its owner, if satisfied that the owner is in compliance with this Act, the regulations and any applicable order made in relation to the animal;

- (b) an order requiring the owner to pay any amount of the costs of care for which the owner is liable;
- (c) an order that the Director or the Society may dispose of the animal as they see fit; and
- (d) in the case of an animal wrongfully euthanized, an order that the owner be compensated for the value of the animal not exceeding the prescribed amount.

- Copy of decision (6) The Appeal Board shall serve a copy of its decision on the parties.
- Director or Society to deal with animal (7) When the Appeal Board has made a decision, the Director or the Society shall deal with the animal in the manner ordered.
- Order final and binding (8) The decision of the Appeal Board is final and binding and is not subject to appeal.

## PART 6

### ENFORCEMENT

#### Inspections

- Inspection powers **31.** (1) For the purpose of ensuring compliance with any provision of this Act, the regulations or an order under this Act, an animal protection officer may, at any reasonable time,
- (a) enter any premises that the inspector has reason to believe is used in connection with an animal or a license; and
  - (b) inspect the premises and any animal or thing used or obtained in connection with the premises, an animal or a license.
- Dwelling place (2) Despite subsection (1), an animal protection officer may not enter or inspect a dwelling place unless
- (a) the owner, occupant or person in possession or control of the dwelling place consents;
  - (b) the entry or inspection is authorized by a warrant; or
  - (c) a warrant is not required under section 34.
- Related inspection powers (3) During an inspection, an animal protection officer may
- (a) open, or cause to be opened, any container and inspect its contents;
  - (b) require the production of any animal or thing for inspection, including an animal or thing in a dwelling place;
  - (c) take samples of any animal or thing free of charge;
  - (d) require the production of any record, document or data for inspection or copying, in whole or in part;

- (e) use or cause to be used any computer system and examine any data contained in or available to the computer system and print or export any record or data for examination or copying;
- (f) reproduce or cause to be reproduced, including using computer or copying equipment at the place to make copies of any record, document or data; and
- (g) subject to section 32, take action under section 20 or seize any thing that may provide evidence for the purpose of ensuring compliance.

(4) A veterinarian and a peace officer may assist an animal protection officer for the purposes of an inspection. Assistance of veterinarian and peace officer

(5) The owner of an animal being inspected, the person in possession or control of the premises or thing being inspected and every person found on the premises, shall Assistance of owner

- (a) give the animal protection officer all reasonable assistance to enable the officer to carry out his or her functions; and
- (b) provide the animal protection officer with any information in relation to the administration of this Act and the regulations that the officer may reasonably require.

(6) An animal protection officer or other person conducting or assisting an inspection shall use no more force than is reasonably required. Reasonable force

#### Search and Seizure

**32.** (1) An animal protection officer who believes, on reasonable grounds, that an offence under this Act has been committed may enter any premises and search the premises and any thing for the purpose of obtaining evidence in relation to that offence under this Act if Searches

- (a) the owner, occupant or person in possession or control of the premises or thing, as the case may be, consents;
- (b) the entry and search is authorized by a warrant; or
- (c) a warrant is not required under section 34.

(2) If, during the course of an inspection or search, an animal protection officer believes, on reasonable grounds, that an animal or thing is evidence in relation to an offence under this Act, he or she may seize the animal or thing if Seizures

- (a) the owner of the animal or the person in possession or control of the thing, as the case may be, consents;
- (b) the seizure is authorized by a warrant; or
- (c) a warrant is not required under section 34.

Powers during search or seizure	(3) The provisions of section 31 in respect of the conduct of an inspection, including the powers and duties of an animal protection officer and the provision of assistance and information by others, also apply in respect of a search or seizure under this section, with such modifications as the circumstances require.
Receipt for animals or things seized	(4) An animal protection officer who seizes any animal or thing shall make reasonable efforts to issue a receipt describing the animal or thing seized to the person from whom it was seized.
Warrant	<p><b>33.</b> (1) The court may issue a warrant authorizing an animal protection officer to enter any premises, search the premises and any animal or thing and to seize any animals or things, if the court is satisfied by information on oath that</p> <p style="padding-left: 40px;">(a) the entry, search or seizure is justified because a contravention of this Act, the regulations or a license has been committed and there are reasonable grounds for believing that the entry, search or seizure may provide evidence in relation to the contravention; and</p> <p style="padding-left: 40px;">(b) the owner, occupant or person in possession or control of the premises, animal or thing, as the case may be, does not consent, there are reasonable grounds for believing that consent will be refused or there are reasonable and probable grounds for believing that evidence may be lost if an attempt at obtaining consent is made.</p>
Assistance order	(2) A warrant may include an order that any person named or identified in the warrant shall provide any assistance reasonably considered to be required to give effect to the warrant.
Application without notice	(3) A warrant may be issued, with or without conditions, on an application made without notice.
Exigent circumstances	<b>34.</b> (1) A warrant is not required under this Act if urgency, the likelihood of the removal or destruction of evidence or other relevant factors do not reasonably permit the obtaining of a warrant or consent.
No entry or search of dwelling place	(2) Subsection (1) does not authorize the entry and search of the living quarters of a dwelling place.
Obstruction	<p><b>35.</b> While an animal protection officer or other person is exercising powers or carrying out duties or functions under this Act, no person shall</p> <p style="padding-left: 40px;">(a) knowingly make any false or misleading statement, either orally or in writing, to the animal protection officer or other person; or</p> <p style="padding-left: 40px;">(b) otherwise obstruct or hinder the animal protection officer or other person.</p>

### Sanctions in Respect of a License

- 36.** (1) The Director may suspend or revoke a license, or refuse to renew a license, if the Director is satisfied that the license holder
- Suspension or revocation of license
- (a) in the application for the license, gives false particulars or knowingly misrepresents or fails to disclose any fact required to be stated in the application;
  - (b) contravenes a term or condition of the license;
  - (c) fails to comply with this Act, the regulations or an order under this Act;
  - (d) has been found guilty of an offence under any Act of the Legislature or the *Criminal Code* (Canada) relating to the treatment of animals or the wrongful possession of an animal;
  - (e) the license holder has ceased to be suitable or eligible to hold a license; or
  - (f) the suspension or revocation is authorized for any other prescribed reason.
- (2) The Director shall, in accordance with the regulations, serve the license holder with written notice of the proposed suspension, revocation or refusal to renew a license that includes
- Notice
- (a) a summary of the proposed sanction;
  - (b) a summary of the facts and reasons for the proposed sanction;
  - (c) a time period within which the person may make representations to the Director; and
  - (d) a summary of the procedure to be followed in the case.
- (3) The license holder may make representations to the Director regarding the proposed suspension or revocation.
- Representations
- (4) The Director shall consider the representations made by the license holder.
- Consideration of representations
- (5) The Director shall, after considering any representations made, make a final decision regarding the proposed suspension or revocation.
- Final decision
- (6) The Director shall serve written notice of the final decision on the license holder that includes a statement of the owner's right to appeal the decision to the Appeal Board.
- Notice of final decision

### Order to Restrict Number of Animals

- 37.** (1) The court may, on application by the Director, make an order under subsection (2) in respect of an owner, if satisfied that
- Order restricting ownership of animals
- (a) the owner's animals have been seized or taken into custody under this Act;
  - (b) at the time those animals were seized or taken into custody, the owner was unable to comply with this Act because the number or

type of animals owned, possessed or controlled by the owner exceeded the owner's ability to carry out his or her duties toward them; and

(c) the owner is not, or may not be, able to comply with the provisions of this Act, the regulations or an order under this Act in respect of the animals that the owner presently owns, possesses or controls, or may own, possess or control, because the circumstances referred to in clause (b) continue to exist or may occur again.

Order

(2) The order may

(a) prohibit the owner from owning, or having possession or control of, more than a specified number or type of animals, for a period up to three years; and

(b) direct that any animals owned, possessed or controlled by the owner at the time the order is made

(i) beyond the number of animals allowed under the order, or

(ii) other than the type of animal allowed under the order,

become the property of the Government of Prince Edward Island, in the case of commercial animals, or the Society, in the case of companion animals.

#### Offences and Punishment

Offence

**38.** (1) A person who contravenes a provision of this Act, the regulations or an order under this Act is guilty of an offence.

Attempts and accessories

(2) A person who attempts to commit an offence or is an accessory after the fact to the commission of an offence is guilty of an offence, whether or not it was possible under the circumstances to commit the offence.

Parties to offence

(3) Every one is a party to an offence who

(a) actually commits it;

(b) does or omits to do anything for the purpose of aiding any person to commit it;

(c) abets any person in committing it; or

(d) counsels another person to commit or be a party to it.

Liability for employees or agents

(4) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that an employee or agent of the accused committed it in the course of the employment or agency relationship, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that

(a) the offence was committed without the knowledge of the accused; and

(b) the accused exercised due diligence to prevent the commission of the offence.



(5) If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable to the punishment provided for the offence as an individual, whether or not the corporation has been prosecuted. Liability of corporate officers

(6) Nothing in this section relieves the person who actually committed the offence from liability for it. Original liability

**39.** (1) Every person who commits an offence under this Act is liable on summary conviction Penalties

(a) in the case of a corporation, to a fine of not less than \$1,000 and not more than \$20,000; or

(b) in the case of an individual,

(i) to a fine of not less than \$500 and not more than \$10,000,

(ii) to imprisonment for a term of not more than six months, or

(iii) to both a fine and imprisonment.

(2) Despite subsection (1), where a person is convicted of an offence a second or subsequent time, the person is liable on summary conviction Subsequent offence

(a) in the case of a corporation, to a fine of not less than \$20,000; or

(b) in the case of an individual,

(i) to a fine of not less than \$10,000,

(ii) to imprisonment for a term of not more than 12 months, or

(iii) to both a fine and imprisonment.

(3) A person who commits or continues an offence on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued. Continuing offence

(4) If a person is convicted of an offence and the court is satisfied that monetary benefits accrued or could have accrued to the person as a result of the offence, Additional fine

(a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits;

(b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act; and

(c) the additional fine is to be added to any other fine or amount of money ordered to be paid under this Act.

(5) If a person fails, within the time required by law, to pay a fine imposed under this Act and is served with written notice of the consequences of failure to pay under this section, the fine may be collected as if it were a debt due to the Government of Prince Edward Island under section 27. Failure to pay fine

Issuing tickets **40.** An animal protection officer may issue tickets under the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9, in respect of a contravention of this Act, the regulations or an order under this Act.

#### Protection Order

Order in cases of torture **41.** (1) The Director may apply to the court for a protection order under this section if

- (a) a person is charged with the offence of torturing an animal contrary to section 4(1); and
- (b) there are reasonable grounds for believing that the person is a danger to animals, to any owner of an animal or to a person who is a witness to the acts that gave rise to the charge.

Appearances (2) The court, on receiving an application under subsection (1), may cause the parties to appear before the court.

Protection order (3) The court may, if satisfied by the evidence adduced that there are reasonable grounds for believing that the danger exists, make a protection order to restrain the person charged from contacting, harassing, molesting, intimidating, retaliating against, or tampering with the animals or persons at risk.

Duration of order (4) The protection order shall take effect from the time it is made until final disposition of the offence.

Service of copies (5) The Director shall serve a copy of the protection order to the persons being protected under the protection order.

Additional animals (6) The court may, at any time during the proceedings related to the offence, include other animals or persons in the protection order.

Compliance with order (7) Any person who is restrained by a protection order shall comply with the order in accordance with its terms.

#### Other Judicial Powers

Other orders **42.** (1) When convicting a person for an offence under this Act, or granting a conditional discharge in respect of the offence, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence, including prohibiting the person from owning or having possession or control of animals of a type or number and for such duration as the court may consider appropriate;

- (b) directing the person to take any action that the court considers appropriate to remedy or avoid any harm that resulted or may result from the commission of the offence;
- (c) directing the person to undergo a psychiatric evaluation as specified by the court and, if justified by the evaluation of the person's mental condition, requiring the person to undergo appropriate treatment;
- (d) directing the person to publish, in any manner that the court considers appropriate, the facts relating to the commission of the offence;
- (e) directing the person to perform community service in accordance with any conditions that the court considers reasonable;
- (f) directing the person to submit to the Director, on application to the court by the Director within three years after the conviction, any information about the activities of the person that the court considers appropriate;
- (g) directing the person to pay an amount to the Operating Fund for all or any of the costs of remedial or preventive action taken, or to be taken, by or on behalf of the Government of Prince Edward Island as a result of the offence, and to the Society in respect of its analogous costs;
- (h) directing the person to pay to the Operating Fund an amount of money the court considers appropriate for costs incurred in connection with the offence, in the manner determined by the court;
- (i) directing the person to post a bond or security or pay to the court an amount that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section;
- (j) transferring ownership of any animals owned by the person to the Government of Prince Edward Island, the Society or any other person the court considers appropriate;
- (k) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

(2) The amount of compensation or costs and any interest payable on that amount constitute a debt due to the Government of Prince Edward Island and may be collected as if it were a debt due to the Government of Prince Edward Island under section 27.

Collection of  
compensation and  
costs

#### Prosecutions

**43.** Proceedings in respect of an offence under this Act may be commenced at any time within, but not later than, two years after the day on which the Director became aware of the offence.

Limitation period

- Protection from liability
- 44.** No action or proceeding may be brought against the following persons for anything done or omitted to be done, in good faith, in the exercise or performance, or intended exercise or performance, of a power, function or duty under this Act:
- (a) the Minister;
  - (b) the Director;
  - (c) an animal protection officer, any person acting in the capacity of an animal protection officer or any person assisting an animal protection officer;
  - (d) a veterinarian;
  - (e) the Society;
  - (f) an agent appointed under section 16;
  - (g) a member of the Appeal Board.

## PART 7

### MISCELLANEOUS AND GENERAL

#### Regulations

- Regulations
- 45.** The Lieutenant Governor in Council may make regulations
- (a) designating classes, types or categories of animals as companion animals or commercial animals, and excluding other classes, types or categories;
  - (b) prohibiting or restricting activities, practices or procedures in respect of animals;
  - (c) respecting accepted activities under section 7;
  - (d) establishing or adopting standards, manuals, codes, rules, criteria, practices or procedures for the purposes of this Act;
  - (e) respecting the types of establishment or activity requiring a license;
  - (f) respecting the design, construction, operation, maintenance and inspection of any establishment, premises or activity used in connection with the keeping, care, housing, breeding, training, selling or brokering of animals;
  - (g) respecting licenses, including the form and content of licenses and related documents, the terms and conditions of licenses and the procedures for applications for licenses and renewals, suspensions and revocation of licenses;
  - (h) respecting the design, construction, operation, maintenance and inspection of commercial markets, assembly yards and any establishment, premises or activity licensed under this Act;
  - (i) respecting the appointment or removal of persons appointed under this Act, including their qualifications, identification and codes of conduct;

- (j) respecting the terms and conditions of reimbursement or remuneration for persons appointed under this Act;
- (k) respecting the requesting, collecting and provision of records and information and the form, content, maintenance, service and provision of any document, record, notice, order or other information under this Act;
- (l) respecting inspections, searches, the seizure and custody of animals, the use of force and any other procedures required for administering and enforcing this Act;
- (m) respecting fees payable under this Act or the regulations;
- (n) respecting the recovery of costs from an owner or other person for costs incurred in the enforcement of this Act, including the costs of care or other amounts payable under this Act or a method for determining those costs or amounts;
- (o) respecting the rescue, seizure or taking into custody of animals in immediate life-threatening distress;
- (p) respecting the conduct of reviews and appeals under this Act;
- (q) exempting persons, premises or species or types of animals from this Act or certain provisions of it, including licensing provisions;
- (r) defining any word or phrase used but not defined in this Act;
- (s) prescribing any matter or thing required or authorized by this Act to be prescribed by the regulations;
- (t) providing for any transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of this Act; and
- (u) respecting such other matters as the Lieutenant Governor in Council considers necessary to give effect to the purposes of this Act.

**46.** (1) Where a standard, code of practice, criteria, practice or procedure respecting a matter referred to in this Act has been established by an association, person or body of persons and is available in written form, the Lieutenant Governor in Council may, by regulation, adopt the standard, code of practice, criteria, practice or procedure as established, or as amended from time to time, and upon adoption, is in force, either in whole or in part, or with such variations as may be specified in the regulations.

Adoption of  
standard, code of  
practice, criteria,  
practice or  
procedure

(2) For greater certainty, a standard, code of practice, criteria, practice or procedure established or adopted under this Act may include rules, norms, principles and levels of quantity or quality respecting

- (a) the design and construction of establishments and premises;
- (b) the equipment and materials required in the operation of establishments or premises;
- (c) the manner of operating establishments and premises, including hygiene and sanitation;

Standards

- (d) the provision of care to animals, including the prevention of disease and procedures for the recapture of escaped animals;
- (e) the qualifications, training and hygiene of persons who work or perform a function in establishments or premises; and
- (f) the maintenance of records and requirements for reporting or providing information in relation to establishments or premises.

#### Savings and Transitional

Former Board  
members

**47.** (1) A person who, on the date this Act comes into force, held office under the former Act continues to hold the same office under this Act, until his or her current term of office expires or his or her appointment is sooner terminated by death, resignation or removal.

Decisions, orders  
and contracts

(2) Every decision, order or agreement made or entered into under the former Act that is in force on the date this Act comes into force continues under this Act, to the extent it does not conflict with this Act or the regulations, until it expires or is amended, revoked or terminated in accordance with this Act.

Existing licenses

(3) Any valid license issued under the former Act that is in effect on the date this Act comes into force continues in effect until the earlier of the following:

- (a) the date it expires;
- (b) the date it is suspended or revoked;
- (c) June 30, 2015.

Former Act

(4) For the purposes of this section, “former Act” means the *Companion Animal Protection Act* R.S.P.E.I. 1988, Cap. C-14.1.

#### Repeal

*Companion Animal  
Protection Act*

**48.** The *Companion Animal Protection Act* R.S.P.E.I. 1988, Cap. C-14.1 is repealed.

#### Consequential Amendments

*Animal Health and  
Protection Act*

**49. (1) The *Animal Health and Protection Act* R.S.P.E.I. 1988, Cap. A-11.1 is amended by this section.**

**(2) The title to the Act is amended by the deletion of the words “and Protection”.**

**(3) Clause 1(a.1) of the Act is repealed.**

**(4) The headings immediately before section 8 and sections 8 to 16 of the Act are repealed.**

### Commencement

**50.** This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council. Commencement

## EXPLANATORY NOTES

**SECTION 1** provides for the definition and interpretation of terms used in the Act and how to resolve a potential inconsistency between this Act and the *Dog Act* or the *Stray Livestock Act*.

**SECTION 2** clarifies that this Act applies to game birds kept on a game farm, but does not apply to fish, marine mammals or wildlife that is the property of Her Majesty in right of the province and animals prescribed in the regulations.

**SECTION 3** provides for the general duties of an owner of an animal to care for it, including providing food, water, exercise and proper shelter.

**SECTION 4** prohibits the torturing of animals or inflicting or causing various forms of unnecessary pain or suffering.

**SECTION 5** prohibits the training of an animal to fight, activities related to animal fighting and the harming an animal that works with peace officers.

**SECTION 6** prohibits unnecessary cosmetic surgery on animals.

**SECTION 7** lists activities in relation to animals (e.g. agricultural activities, sports, guard duties and hunting) that are acceptable under this Act, as long as they are performed in accordance with standards, codes of conduct, criteria, practices or procedures. The specific prohibitions under the *Criminal Code* continue to apply.

**SECTION 8** requires veterinarians to report violations of the Act to the Director.

**SECTION 9** requires a license to operate a companion animal retail store.

**SECTION 10** provides the procedure for applying for a license and allows the Director to require information about the proposed store.

**SECTION 11** provides for issuing or refusing to issue a license, attaching conditions to a license, the posting of licenses, compliance with a license, the term of a license and a register of license holders.

**SECTION 12** requires a license holder to keep records and to provide information to the Director on request.



**SECTION 13** provides that information must be disclosed despite the *Freedom of Information and Protection of Privacy Act*.

**SECTION 14** provides that the Minister is responsible for the administration of this Act and that the Minister may hire experts and advisors to assist in the efficient administration and enforcement of this Act and the regulations.

**SECTION 15** provides that the Minister may appoint a Director to administer this Act and the regulations and perform such other functions as may be assigned by the Minister. The Director is considered to be an animal protection officer and may delegate his or her functions to any employee of the Department of Agriculture and Fisheries or any animal protection officer.

**SECTION 16** provides that the Director may appoint qualified persons or organizations to act as agents of the Director to perform functions on behalf of the Director.

**SECTION 17** provides that the Minister may appoint employees, veterinarians, a member or employee of the Humane Society and other qualified persons as animal protection officers. Conservation officers and police officers are considered to be animal protection officers by virtue of their office.

**SECTION 18** provides that an animal protection officer who believes on reasonable grounds that an animal is in distress may

- (a) conduct an inspection in respect of the animal in accordance with section 31;
- (b) make an order in accordance with section 19;
- (c) seize an animal in accordance with section 20;
- (d) take any other reasonable action, including the provision of medical care, the animal protection officer considers necessary to care for the animal or relieve its distress.

**SECTION 19** provides that an animal protection officer may make orders to

- (a) relieve any distress of the owner's animal;
  - (b) ensure that the owner provides the care required under section 3;
- or
- (c) ensure the owner complies with any other provision of this Act, the regulations or an order under this Act.

**SECTION 20** provides for seizing an animal or taking it into custody if it is abandoned or is in distress or the health and well-being of the animal necessitates its seizure. The Director or the Humane Society shall provide care for the animal after it is seized or taken into custody.

**SECTION 21** provides for the euthanasia of an animal if the animal is in such distress or is so ill or injured that it is incapable of being cured or healed or continuing to live without suffering.

**SECTION 22** requires that the owner of an animal be given written notice of any actions taken in respect of the animal and, if the animal is seized or taken into custody, explaining the circumstances under which the animal may be subsequently sold, given away, placed for adoption or euthanized.

**SECTION 23** provides a procedure for an owner to recover possession of an animal that has been seized or taken into custody, by appealing to the Appeal Board or by applying directly to the Director or Humane Society.

**SECTION 24** provides for how the Director, or the Humane Society for a companion animal in its possession and charge under this Act, may sell, give away, place for adoption or euthanize the animal.

**SECTION 25** provides for how the Director, or the Humane Society for a companion animal in its possession and charge, may issue a statement of account to an owner and recover their various costs of caring for and disposing of an animal that has been seized or taken into custody.

**SECTION 26** provides for how the proceeds of selling an animal are to be handled.

**SECTION 27** provides for collecting costs from an owner who does pay the Government or the Humane Society.

**SECTION 28** provides for an Appeal Board to hear appeals under this Act, which is to be composed of not fewer than three persons, of whom

- (a) one shall be a veterinarian; and
- (b) the others shall be knowledgeable in regard to animal husbandry or welfare.

**SECTION 29** establishes the procedure for making appeals to the Appeal Board when a person is aggrieved by the order or decision under this Act.

**SECTION 30** provides for the hearing of an appeal by the Appeal Board and the decisions it can make on an appeal.

**SECTION 31** provides for comprehensive inspection powers to ensure compliance with the Act, the regulations or an order under this Act.

**SECTION 32** provides for searches and seizures where an animal protection officer believes, on reasonable grounds, that an offence under this Act has been committed.

**SECTION 33** provides for a warrant to be issued by the court authorizing an animal protection officer to enter any premises, search the premises and any animal, thing and to seize any animals or things, if the court is satisfied by information on oath that the entry, search or seizure is justified.

**SECTION 34** allows for an exception to the requirement to obtain a warrant in cases of urgency, the likelihood of the removal or destruction of the evidence or other relevant factors.

**SECTION 35** prohibits obstructing an animal protection officer or other person performing functions under this Act.

**SECTION 36** provides a procedure for the Director to suspend or revoke a license, or refuse to renew a license if a license holder gives false information in a license application or contravenes this Act, the license or the *Criminal Code* in respect of animal treatment.

**SECTION 37** allows the Director to issue an order restricting, for a period up to three years, the number or type of animals that an owner may own, or possess or control.

**SECTION 38** provides for offences and the liability of parties to an offence, including directors or agents of a corporation that commits an offence.

**SECTION 39** provides for the penalties for a first offence, a subsequent offence and continuing offences, with fines for a first offence of \$20,000 for a corporation and, for an individual, a fine of \$10,000, imprisonment for six months or both.

**SECTION 40** allows an animal protection officer to issue tickets under the *Summary Proceedings Act*.

**SECTION 41** allows the Court to issue an order to restrain a person charged with torturing an animal from contacting, harassing, molesting, intimidating, retaliating against, or tampering with

- (a) any animal that gave rise to the charge;
- (b) any other person who is an owner of that animal; and
- (c) any witness.

**SECTION 42** provides the Court with comprehensive powers to make other orders against a person convicted of an offence, e.g. other prohibitions, remedial orders and an order that the person undergo a psychiatric evaluation.

**SECTION 43** establishes a two-year limitation period on prosecutions under this Act.

**SECTION 44** protects the Minister, the Director, animal protection officers, the Humane Society and others performing functions under the Act from liability for actions taken in good faith.

**SECTION 45** empowers the Lieutenant Governor in Council to make comprehensive regulations related to animal welfare.

**SECTION 46** provides that codes of practice, rules or standards respecting a matter referred to in this Act that have been established by an association or entity may be adopted under this Act.

**SECTION 47** provides for the continuation of persons appointed, decisions, orders or agreements made and licenses issued under the *Companion Animal Protection Act*.

**SECTION 48** repeals the *Companion Animal Protection Act*.

**SECTION 49** amends the *Animal Health and Protection Act* to rename it as the “*Animal Health Act*” and to remove provisions related to animal protection.

**SECTION 50** provides for the commencement of this Act.

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**BILL NO. 2**

**Animal Welfare Act**

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	June 4, 2015
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

\_\_\_\_\_  
Honourable H. Frank Lewis, Lieutenant Governor

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Honourable Francis (Buck) Watts, Speaker

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Clerk

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Honourable J. Alan McIsaac  
Minister of Agriculture and Fisheries

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GOVERNMENT BILL

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2015  
1st SESSION, 65th GENERAL ASSEMBLY