

SNL2010 CHAPTER A-9.1

ANIMAL HEALTH AND PROTECTION ACT

Amended:

2013 c1

CHAPTER A-9.1

AN ACT RESPECTING THE HEALTH AND PROTECTION OF ANIMALS

(Assented to June 24, 2010)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

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

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Interpretation

2. (1) In this Act

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

(b) "animal by-product" means a part of an animal or its carcass that is extracted, collected or otherwise obtained from an animal or from its carcass for purposes that are not a principal intention of growing or raising the animal and includes,

(i) blood and its components, and anything containing those things or derived from those things,

(ii) antlers, bones, bristles, feathers, flesh, hair, hides, skins, hoofs, horns, offal and anything containing those things or derived from those things, and

(iii) another thing prescribed by regulation as an animal by-product,

but does not include a thing prescribed by regulation as excluded;

(c) "animal product" means a material derived from an animal or its carcass where a principal intention of growing or raising the animal is for the consumption or other use by humans of the material, whether for food, fibre, fuel, pharmacological or medical purposes, and includes,

(i) reproductive animal material, including ova, embryos and semen,

(ii) meat,

(iii) milk, cream, butter and cheese,

(iv) eggs,

(v) honey,

(vi) fibre derived from animals,

(vii) hides, skins and pelts, and

(viii) another thing prescribed by regulation as an animal product,

but does not include a thing prescribed by regulation as excluded;

(d) "Chief Veterinary Officer" means the official employed in the department as the chief veterinary officer;

(e) "companion animal" means

(i) a dog,

(ii) a cat, or

(iii) an animal kept for companionship or bred or raised for sale for companionship and not for an agricultural purpose,

and excludes

(iv) livestock,

(v) wild life and fish as defined in the Wild Life Act , and

(vi) an animal that may be prescribed by regulation as excluded;

(f) "department" means the department presided over by the minister;

(g) "distress" means the state of being in need of proper care, water, food or shelter, being sick, injured, abused or in pain or of suffering undue or unnecessary hardship, privation or neglect;

(h) "dog" means a dog, male or female, and includes an animal which is a cross between a dog and a wolf;

(i) "fur bearing animal" means a beaver, chinchilla, fisher, fox, lynx, marten, mink, muskrat, rabbit, squirrel, weasel, wolf or other animal that may be prescribed by regulation to be a fur bearing animal;

(j) "hazard" includes

(i) a danger or threat to life or property, or

(ii) an impediment to the operation of a motor vehicle;

(k) "injured" and "injuries" includes injuries caused by wounding, worrying, terrifying or pursuing;

(l) "inspector" means an inspector appointed or designated under section 68 ;

(m) "licence" means a licence issued under section 55 ;

(n) "licensee" means a person who is the holder of a licence issued under section 55 ;

(o) "livestock" means horses, cattle, sheep, goats, swine, poultry, llamas, alpacas, bison, and fur bearing animals raised in captivity and another domesticated animal that may be prescribed by regulation to be livestock;

(p) "minister" means the minister appointed under the Executive Council Act to administer this Act;

(q) "motor vehicle" means a vehicle propelled, driven or controlled other than by muscular power and includes a vehicle running on fixed rails;

(r) "municipal authority" means a local government designated by the minister under section 77 ;

(s) "nuisance" as applied to animals means an animal which has

(i) been shown to have trespassed upon land enclosed by a fence by breaking, going under or jumping over the fence, or

(ii) caused a hazard to people, other animals, livestock operations, property or to the safe operation of motor vehicles;

(t) "owner" when used with reference to an animal includes a person who has custody, charge or possession of that animal or who is the owner of property, a house, premises or part of a premises where an animal is kept or permitted to live or remain;

(u) "peace officer" means a member of the Royal Newfoundland Constabulary or a member of the Royal Canadian Mounted Police;

(v) "place" includes commercial or private premises, land, a container, vehicle, vessel or aircraft;

(w) "poultry" means chicken, turkeys, ducks, geese, guinea fowl, pigeons and other domesticated birds;

(x) "SPCA" means the corporation known as The Society for the Prevention of Cruelty to Animals (Newfoundland and Labrador);

(y) "staff veterinarian" means a veterinarian employed in that capacity by the department;

(z) "veterinarian" means a veterinarian licensed under the Veterinary Medical Act, 2004 ; and

(aa) "warrant" includes a telewarrant.

(2) For the purpose of this Act, an accepted activity is an activity designated by the regulations as an accepted activity.

(3) Notwithstanding subsection (2), an activity is an accepted activity only where it is carried out in a manner that is consistent with the regulations.

(4) Parts II, III, IV and V do not apply to fish or wild life as defined in the Wild Life Act .

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Labrador Inuit rights

3. (1) This Act and regulations made under this Act shall be read and applied in conjunction with the Labrador Inuit Land Claims Agreement Act and, where a provision of this Act or the regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the Labrador Inuit Land Claims Agreement Act, the provision, term or condition of the Labrador Inuit Land Claims Agreement Act shall have precedence over the provision of this Act or a regulation made under this Act.

(2) Where under this Act or regulations made under this Act, the minister issues a licence, he or she may add to that licence terms or conditions that the licensee must comply with in order to ensure compliance with the terms and conditions of the Labrador Inuit Land Claims Agreement Act.

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PART I

ANIMAL HEALTH

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Interpretation

4. (1) For the purpose of this Part and Parts V, VI, VII, and VIII, "animal" includes honey bees and other invertebrates as may be prescribed by regulation to be included as animals.

(2) Where this Part applies to fish, it shall be to

(a) fish as defined in the Wild Life Act ; and

(b) fish that are companion animals.

(3) This Part does not apply to fish or aquatic animals that are subject to the Fish Inspection Act or the Aquaculture Act .

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Inspection

5. (1) An inspector may inspect an animal, animal by-product, animal product, waste material, bedding, food, water, drugs or other thing related to an animal, or an activity which an inspector has reasonable grounds to believe is related to an animal, or a place in which an inspector has reasonable grounds to believe an animal, or information related to an animal, is kept or has been kept,

(a) where an inspector reasonably believes that it is necessary to carry out an inspection to determine the presence, absence or prevalence of a contagious or infectious disease, or to prevent the spread of a contagious or infectious disease; or

(b) to determine compliance with this Part and the regulations, or an order, a licence or a permit made under this Act or the regulations.

(2) An inspector may carry out an inspection under subsection (1) at a reasonable time either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary.

(3) The power to enter and inspect a place under this section shall not be exercised to enter and inspect a place that is a dwelling house except with the consent of the occupant or under a warrant.

(4) An inspector conducting an inspection under this section may

(a) pass through or over land without being liable for trespass or another action in relation to that land, in order to gain access to the place that is subject to the inspection;

(b) enter and inspect the place and the animals, animal products, animal by-products, waste materials, bedding, food, water, drugs or other things related to animals found there;

(c) open a package, crate, cage, or other thing for the purpose of examining the contents;

(d) detain, or order the owner to detain, or seize an animal for the purpose of inspection, inoculation, or treatment for infectious or contagious disease, or to prevent the spread of that infectious or contagious disease, or for another purpose that is relevant to this Part;

(e) implement inoculations of animals that may be considered necessary to prevent the spread of infectious or contagious disease, and treat animals suffering from or suspected of suffering from that infectious or contagious disease;

(f) quarantine or dispose of an animal, or arrange for the quarantine or disposal of the animal, in accordance with the regulations or an order;

(g) detain, or order the owner to detain, or seize an animal product, an animal by-product, waste material, bedding, food, drugs or other thing related to an animal;

(h) mark an animal, a container or other thing that has been inspected for the purpose of identification;

(i) take samples from or perform or arrange for tests on living or dead animals, animal products, animal by-products, waste materials, bedding, food, drugs or other things related to animals on, at or in the place, and may exhume or cause to be exhumed the carcass of an animal to do these things;

(j) conduct or cause to be conducted an examination with respect to a dead animal and transport or cause to be transported the remains of the animal for this purpose;

(k) take photographs or make videos, notes or other recordings of a thing on, at or in the place that the inspector considers to be of assistance to the inspection;

(l) demand the production of and examine a record or thing that is relevant to the inspection;

(m) make copies of a record or thing or, upon issuing a receipt, remove them for the purpose of making copies;

(n) use or cause to be used a data processing system at the place to examine data contained in or available to the data processing system;

(o) reproduce a record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying;

(p) use or cause to be used copying equipment at the place to make copies of a record, book of account or other document; and

(q) require the owner to give the inspector all reasonable assistance, including the production of an animal, animal product, animal by-product, waste material, bedding, food, water, drugs or other thing related to an animal that is relevant to the inspection, and to answer all questions relating to matters arising under this Part and the regulations concerning animals, animal origins, animal products, animal by-products, waste materials, bedding, food, water, drugs or other things related to animals that are present, have been present, or are expected to be present on, at or in the place, and, for that purpose, require the owner to attend at a place with the inspector.

(5) A sample taken under subsection (4) shall be disposed of as the minister directs.

(6) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that animals, animal products, animal by-products, waste materials, bedding, food, water, drugs or other things related to animals, or information related to animals, are being kept or have been kept on, at or in a place and that an inspector has been prevented from entering or inspecting a place or that an inspector shall be prevented from entering or inspecting a place, under this section, may issue a warrant authorizing one or more inspectors named in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and carry out the activities authorized under this section, subject to the conditions that may be specified in the warrant.

(7) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that animals, animal products, animal by-products, waste materials, bedding, food, water, drugs or other things related to animals, or information related to animals, are kept or have been kept on, at or in a place and an inspector has been prevented from entering or inspecting a place or that an inspector shall be prevented from entering or inspecting a place for a purpose outlined in subsection (1).

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Investigation

6. (1) Where an inspector has reasonable grounds to believe that there is on, at or in a place anything that will give evidence with respect to a contravention of this Part or the regulations or an order, licence or permit made or issued under this Act or the regulations, relating to animal health, the inspector may, with a warrant issued under subsection (2), enter the place and investigate, inquire into and examine anything in respect of which the investigation is being made.

(2) A Provincial Court judge who is satisfied upon oath or affirmation that there is on, at or in a place anything that will give evidence with respect to a contravention of this Part or the regulations or an order, licence or permit made under this Act or the regulations, relating to animal health, may issue a warrant authorizing one or more inspectors named in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and subject to the conditions that may be specified in the warrant, to

(a) search for, examine and seize anything that will provide evidence with respect to a contravention of this Part or the regulations, or an order, licence or permit made or issued under this Act or the regulations, relating to animal health;

(b) examine the animals found there;

(c) take samples from or perform or arrange for tests on living or dead animals, animal products, animal by-products, waste materials, bedding, food, drugs or other things related to an

animal on, at or in the place, and may exhume or cause to be exhumed the carcass of an animal to do these things;

(d) make excavations;

(e) take photographs or make videos, notes or other recordings;

(f) make copies of a record or thing;

(g) use or cause to be used a data processing system at the place to examine data contained in or available to the data processing system;

(h) reproduce a record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying;

(i) use or cause to be used copying equipment at the place to make copies of a record, book of account or other document; and

(j) make those inquiries that the inspector considers necessary.

(3) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that there is on, at or in a place anything that will give evidence with respect to a contravention of this Part or the regulations or an order, licence or permit made under this Act or the regulations, relating to animal health.

(4) Notwithstanding subsection (1), an inspector may exercise the powers referred to in this section without a warrant, in a place other than a dwelling-house, where the conditions for obtaining a warrant exist but because of exigent circumstances it would not be practical to obtain the warrant.

(5) In subsection (4), exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

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Ministerial orders

7. The minister may by order

- (a) designate a part of the province as an animal health area for the purpose of disease control;
- (b) require the destruction of animals believed to be diseased; or
- (c) award compensation for animals destroyed.

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Regulations

8. (1) The Lieutenant-Governor in Council may make regulations in respect of an area, or in respect of the province at large, or in respect of both,

- (a) providing for the prevention, control and eradication of animal diseases;
- (b) prescribing the precautions to be taken on the landing of meats, raw hides or other parts of dead animals which might carry infection;
- (c) prescribing the prohibition of moving animals from the point of entry;

- (d) prescribing the sanitary condition of a place in which animals are kept;
- (e) prescribing the disinfection of a place and the destruction of materials with which animals have been in contact and might carry infection;
- (f) prescribing the prohibition of the use of a place considered to be infected or probably infected;
- (g) prescribing rules for the slaughter of animals found to be dangerously infected;
- (h) prescribing rules for compensating owners of animals ordered to be slaughtered;
- (i) governing the precautions to be taken to isolate animals to prevent the spread of disease;
- (j) prescribing the methods and procedures and requirements of veterinary testing to be applied to animals;
- (k) prescribing the providing of information by importers and dealers as to actual or proposed landings of animals, and as to the conditions as regards animal diseases in the places from which the animals are imported or proposed to be imported;
- (l) respecting the marketing of live animals, animal by-products, animal products, bedding and food for animals and other things related to animals, for the purpose of disease prevention and control;
- (m) governing the records to be kept and the information to be supplied by all importers, dealers, keepers, and breeders in the province of animals, animal by-products, animal products, bedding, food, drugs and other things related to animals, for the purpose of disease prevention and control;

(n) prescribing rules for the moving, keeping, handling and treatment of animals not apparently diseased but responding unsatisfactorily to standard tests for latent disease or proneness to disease;

(o) prescribing the control of the storage, sale and use of

(i) live and killed vaccines, and

(ii) drugs;

(p) prescribing the licensing of importers, dealers, keepers and breeders in the province of animals, animal by-products, animal products, bedding, food, drugs and other things related to animals, for the purpose of disease prevention and control;

(q) prescribing those species or classes of animals that are exempted from the regulations or portions of the regulations;

(r) prescribing the tagging and marking of animals for identification;

(s) respecting the identification of premises in which animals are kept;

(t) prescribing that the costs of tests, vaccinations, inoculations or treatments shall be paid by the owner of the animal concerned;

(u) prescribing, for the purpose of this Part, standards of design, construction and maintenance of the places in which animals are kept;

(v) prescribing, for the purpose of this Part, standards of care of animals;

(w) prescribing an invertebrate as an animal for the purpose of this Part and Parts V, VI, VII and VIII;

(x) prescribing a thing as included in or excluded from the definition of an animal by-product;

(y) prescribing a thing as included in or excluded from the definition of an animal product;

(z) prescribing permits that the minister may issue for the purpose of this Part; and

(aa) generally, to give effect to the purpose of this Part.

(2) Notwithstanding paragraph (1)(h), animals moved, transferred, sold or set at large contrary to this Act or the regulations may be slaughtered without compensation.

(3) The minister may make regulations prescribing the diseases of animals which shall be considered infectious or contagious for the purpose of this Act and which shall be required to be reported under this Act to the Chief Veterinary Officer.

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PART II

ANIMAL PROTECTION

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Viewing of animal

9. (1) An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress,

(a) enter onto land on which a dwelling house is located;

(b) request a person in the dwelling house to produce the animal for inspection; and

(c) where the animal is produced, view the animal or conduct an examination of the animal as may be required to determine whether or not it is in distress.

(2) An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress, enter onto land to view the animal or conduct an examination of the animal as may be required to determine whether or not it is in distress.

(3) Subsection (2) does not apply to land which an inspector is authorized to inspect under section 10 .

(4) An inspector may provide an animal that is found in distress with food, water, care or treatment in addition to another action that the inspector is authorized to take.

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Inspection of commercial place

10. (1) Where it is reasonably necessary for the purpose of ensuring compliance with this Part and the regulations, an inspector may without a warrant enter a place where animals are kept for sale, hire, exhibition, sport, boarding, breeding, training, or other commercial purpose that may be prescribed by regulation, during normal business hours, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary.

(2) The power to enter and inspect a place under this section shall not be exercised to enter and inspect a place that is a dwelling house except with the consent of the occupant or with a warrant.

(3) An inspector conducting an inspection under this section may

(a) enter and inspect the place and examine the animals found there to ascertain whether there is an animal in distress; and

(b) provide an animal that is found in distress with food, water, care or treatment, in addition to another action that the inspector is authorized to take.

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Investigation

11. (1) Where an inspector has reasonable grounds to believe that there is on, at or in a place an animal in distress or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection, the inspector may, with a warrant issued under subsection (2), enter the place and investigate, inquire into and examine anything in respect of which the investigation is being made.

(2) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that there is on, at or in a place an animal in distress or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection, may issue a warrant authorizing one or more inspectors, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and subject to the conditions that may be specified in the warrant, to

(a) search for, examine and seize anything that will provide evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection;

(b) examine the animals found there to ascertain whether there is an animal in distress;

(c) provide an animal that is found in distress with food, water, care or treatment, in addition to another action that the inspector is authorized to take;

(d) take samples from or perform or arrange for tests on living or dead animals, animal products, animal by-products, waste materials, bedding, food, drugs or other things related to an

animal on, at or in the place, and may exhume or cause to be exhumed the carcass of an animal to do these things;

(e) take photographs or make videos, notes or other recordings;

(f) make copies of a record or thing;

(g) use or cause to be used a data processing system at the place to examine data contained in or available to the data processing system;

(h) reproduce a record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying;

(i) use or cause to be used copying equipment at the place to make copies of a record, book of account or other document; and

(j) make those inquiries that the inspector considers necessary.

(3) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that there is on, at or in a place an animal in distress, or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection.

(4) Notwithstanding subsection (1), an inspector may exercise the powers referred to in this section without a warrant, in a place other than a dwelling-house, where

(a) the conditions for obtaining a warrant exist but because of exigent circumstances it would not be practical to obtain the warrant; or

(b) the inspector has reasonable grounds to believe that there is on, at or in the place, an animal in immediate distress.

(5) For the purpose of subsection (4),

(a) "exigent circumstances" include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence; and

(b) "immediate distress," means distress that requires immediate intervention in order to alleviate suffering or to preserve the animal's life.

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Seek owner's cooperation

12. (1) Where an inspector has reasonable grounds to believe that an animal is in distress, the inspector may endeavour to obtain the owner's cooperation to relieve the animal's distress.

(2) Subsection (1) applies where the owner of the animal is present or may be found promptly.

(3) An inspector may take reasonable steps to find the owner of the animal.

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Taking custody of animal

13. (1) Where an inspector is lawfully present in a place in accordance with this Act or with a warrant, or in a public place, the inspector may take custody of an animal in distress, in the following circumstances:

(a) a veterinarian has examined the animal and has advised the inspector in writing that the health and well-being of the animal necessitates its removal;

(b) the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or

(c) an owner does not promptly take reasonable steps to relieve the animal's distress.

(2) An inspector who takes custody of an animal in distress under subsection (1) may

(a) retain custody of the animal;

(b) arrange for necessary transportation, food, care, shelter and veterinary medical treatment;

(c) deliver the animal into the custody of the SPCA;

(d) deliver the animal into the custody of the minister with the approval of the Chief Veterinary Officer; or

(e) deliver the animal into the custody of a municipal authority, upon the approval of an inspector who is an employee of the municipal authority.

(3) An inspector who has taken custody of an animal under subsection (1) shall immediately serve written notice of his or her action on the owner of the animal, or take reasonable steps to find the owner and inform him or her of the action taken.

(4) A person, to whom custody of the animal may have been delivered under subsection (2), shall take reasonable steps to find the owner of the animal in the event the owner has not been found under subsection (3).

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Destruction of an animal

14. (1) An inspector may destroy an animal where the animal is in such distress that it cannot,

(a) in the opinion of a veterinarian;

(b) in the unanimous opinion of an inspector and 2 other persons; or

(c) in the opinion of a inspector alone in a critical situation where a veterinarian or 2 other persons are not available to the inspector,

be relieved of its distress or live without undue suffering.

(2) The inspector or the person to whom custody of the animal has been delivered under paragraph 13 (2)(c), (d) or (e), shall take reasonable steps to find the owner of the animal and advise him or her of the animal's destruction.

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Expenses

15. (1) The owner of an animal that is taken into custody under section 13 may enter into an agreement to pay to the SPCA, the municipal authority or the minister, part or all of the expenses incurred with respect to the transportation, food, care, shelter or veterinary medical treatment provided for the animal and for its destruction in the event the animal is destroyed.

(2) The SPCA, the municipal authority or the minister may, before delivering the animal to its owner, require the owner to pay the expenses referred to in subsection (1).

(3) The SPCA, the municipal authority or the minister may recover the expenses referred to in subsection (1) in a court in an action in debt where the owner does not

(a) enter into an agreement under subsection (1); or

(b) make a payment in accordance with an agreement under subsection (1) within the time that is set out in that agreement.

(4) An animal may be kept in the custody of an inspector, the SPCA, a municipal authority or the minister where the owner of the animal is indebted for the expenses referred to in this section.

(5) This section does not apply where a Provincial Court order has been issued under section 16 .

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Provincial Court order

16. (1) A Provincial Court judge may, upon an application by an inspector, the SPCA, a municipal authority or the minister, make an order authorizing the keeping in care of an animal that is in custody under section 13 where,

(a) the owner of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection 13 (1), with an offence under this Act or the regulations or under another law in force in the province pertaining to the welfare of or prevention of cruelty to animals; and

(b) the Provincial Court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that the animal may be subject to distress if returned to its owner.

(2) An order made under subsection (1) may be made on such conditions as the Provincial Court judge considers appropriate, including providing for the return of the animal to its owner where

(a) the inspector or other person who has custody of the animal is satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner and, where applicable, the owner has complied with an order issued under this section respecting the payment of expenses; or

(b) the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.

(3) Where a Provincial Court judge makes an order under subsection (1), he or she may also order that the whole or a part of the cost of providing transportation, food, care, shelter or treatment to the animal be paid by the owner to the person who is authorized by the order to keep the animal in his or her care.

(4) A person who is authorized to keep an animal in his or her care or the owner of the animal may apply to a Provincial Court judge to vary an order made under subsection (3) and the Provincial Court judge may make such order as he or she considers appropriate.

(5) The owner of the animal may apply to a Provincial Court judge to order the return of an animal that is the subject of an order made under subsection (1) and, where satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner, the Provincial Court judge may order the return of the animal to its owner, subject to conditions that the Provincial Court judge considers appropriate.

2010 cA-9.1 s16

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[Disposal](#)

17. (1) Where an animal is delivered into the custody of the SPCA, a municipal authority or the minister,

(a) under section 76 ;

(b) by its owner; or

(c) where the owner of the animal is not found by the SPCA, the municipal authority or the minister,

the animal may be destroyed or disposed of within the time and in the manner prescribed by regulation.

(2) Where an animal is sold or given away under subsection (1), the animal becomes the property of the person to whom it is sold or given.

(3) Money paid to the SPCA or a municipal authority under this Part or a Provincial Court order is the property of the SPCA or the municipal authority to which it was paid.

(4) Money paid to the minister under this Act or a Provincial Court order shall be paid into the Consolidated Revenue Fund.

(5) Notwithstanding subsections (1) and (2), where not fewer than 2 inspectors or a staff veterinarian agree that it is not practicable to sell or give an animal to the SPCA, a municipal authority or the minister or to another person, those inspectors or the staff veterinarian may immediately destroy the animal.

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Prohibition

18. (1) A person shall not cause an animal to be in distress.

(2) An owner of an animal shall not permit the animal to be in distress.

(3) Subsections (1) and (2) do not apply in respect of a class of animals prescribed by regulation, or animals living in circumstances or conditions prescribed by regulation, or where the distress is a result of a treatment, process or condition that occurs in the course of an accepted activity.

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Law enforcement animal

19. A person shall not harm or cause harm to an animal used for law enforcement purposes.

2010 cA-9.1 s19

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Prohibition - fighting

20. A person shall not

(a) maintain or keep an animal for the purpose of fighting; or

(b) allow or permit an animal to be used for the purpose of fighting.

2010 cA-9.1 s20

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Transport of animal in vehicle

21. A person shall not transport, or permit to be transported, an animal in a motor vehicle outside the passenger compartment unless the animal is confined or secured in a body harness, or by means of another fastening, in a manner which is adequate to prevent the animal from falling off the vehicle or otherwise injuring itself or causing a hazard to other vehicles.

2010 cA-9.1 s21

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Prohibition - enclosed space

22. A person shall not confine, or permit to be confined, an animal in an enclosed space, including a motor vehicle, without adequate ventilation.

2010 cA-9.1 s22

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Prohibition - trunk

23. (1) A person shall not transport, or permit to be transported, an animal in the trunk of a motor vehicle.

(2) Subsection (1) does not apply to a station wagon, passenger van, sport-utility vehicle, hatchback or another type of motor vehicle that does not have a trunk.

2010 cA-9.1 s23

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Prohibition

24. (1) A person shall not permit an animal to be hitched, tied or fastened to a fixed object where a choke collar or choke chain forms part of the securing apparatus.

(2) A person shall not permit an animal to be hitched, tied or fastened to a fixed object by means of a rope or cord tied around the animal's neck.

2010 cA-9.1 s24

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Prohibition - docking

25. A person shall not cut, or permit to be cut, the solid part of the tail of a horse, commonly known as "docking", unless in the course of an accepted activity.

2010 cA-9.1 s25

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Prohibition - cropping of ears

26. A person shall not cut or crop, or permit to be cut or cropped, the ear of a dog, unless in the course of an accepted activity.

2010 cA-9.1 s26

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Veterinarian to report

27. (1) A veterinarian who, in the course of practising veterinary medicine, believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly

(a) report his or her belief to the Chief Veterinary Officer; and

(b) provide information respecting the matter that the Chief Veterinary Officer requests.

(2) An action shall not lie against a person for reporting anything under subsection (1) unless the reporting is done falsely and maliciously.

2010 cA-9.1 s27

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Animal injured or killed by motor vehicle

28. (1) A person who, while operating a bicycle or a motor vehicle, injures an animal shall, where reasonably possible, stop and provide the care and attention to the animal that is necessary to relieve its pain and help its recovery.

(2) A person who, while operating a bicycle or a motor vehicle, kills an animal, shall as soon as reasonably possible, notify an inspector of that fact and provide the information that the inspector requires.

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Regulations

29. (1) The Lieutenant-Governor in Council may make regulations

(a) prescribing a place where animals are kept for a commercial purpose and for which an inspection may be conducted under section 10 ;

(b) prescribing an accepted activity and the manner in which it is to be carried out;

(c) prescribing classes of animals, circumstances and conditions for the purpose of section 18 ; and

(d) to give effect to the purpose of this Part.

(2) The minister may make regulations for the purpose of this Part prescribing

(a) standards of design, construction and maintenance of the places in which animals are kept;

(b) standards of care of animals; and

(c) standards for activities involving animals.

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Conflict

30. (1) Where there is a conflict between this Part and Part I of this Act, Part I prevails.

(2) Where there is a conflict between this Part and Part III of this Act, Part III prevails.

(3) Where this Part or the regulations conflict with the City of St. John's Act , the City of Corner Brook Act , the City of Mount Pearl Act , or the Municipalities Act, 1999 or regulations or bylaws made under those Acts, the provisions of this Part shall prevail.

2010 cA-9.1 s30

PART III

NUISANCE ANIMALS

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Duty of owner

31. The owner of a companion animal or livestock shall not permit the animal or livestock to cause a hazard to people, livestock operations, other animals, goods, property or the safe operation of motor vehicles.

2010 cA-9.1 s31

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Dogs to be penned up

32. (1) An owner of a dog shall keep it safely tethered or penned up at all times.

(2) Notwithstanding subsection (1), a dog need not be tethered or penned up, where

(a) it is held on a leash by a person capable of restraining its movements;

(b) it is being used by a person for the purpose of lawful hunting;

(c) it is being used by a person to work in a lawful manner with sheep; or

(d) it is kept or used for a purpose and under the conditions prescribed by regulation.

2010 cA-9.1 s32

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Livestock at large prohibition

33. An owner shall not permit a

(a) bull over the age of 9 months;

(b) stallion over the age of one year; or

(c) ram over the age of 4 months,

to run at large without the consent of the minister.

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Liability

34. (1) An owner of a companion animal or livestock shall be liable for damages or injury caused by that animal or livestock to a person, other animals, goods or property.

(2) Subsection (1) does not apply to damage caused by livestock to crops within 3 feet of a fence.

(3) It shall not be necessary for the plaintiff in an action taken in respect of damage or injury done by a companion animal or livestock to show a previous propensity in that animal or livestock or the owner's knowledge of that previous propensity or to show that the damage or injury was attributable to neglect on the part of the owner.

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Animal may be destroyed

35. (1) Where a person finds a dog that is killing, maiming or pursuing natural persons or livestock, the person may

(a) shoot or otherwise destroy the dog; or

(b) lay a complaint before a Provincial Court judge.

(2) A Provincial Court judge before whom a complaint is laid under paragraph (1)(b) shall proceed promptly to hear the matter of the complaint, but shall first give the owner of the animal reasonable notice of the hearing.

(3) Upon hearing a complaint laid under paragraph (1)(b), a Provincial Court judge may, where satisfied that a dog has been found killing, maiming or pursuing natural persons or livestock, make an order that the owner of the animal destroy the animal or take such action that the Provincial Court judge considers necessary in the circumstances.

(4) An order made under this section is in addition to another available penalty.

2010 cA-9.1 s35

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Complaint before Provincial Court judge

36. (1) A person may lay a complaint before a Provincial Court judge that a companion animal or livestock is a nuisance and not kept under proper control or has bitten or attempted to bite a person or has injured, worried or pursued livestock or has injured other animals.

(2) A Provincial Court judge before whom a complaint is laid under subsection (1) shall proceed promptly to hear the matter of the complaint, but shall first give the owner of the animal reasonable notice of the hearing.

(3) Upon hearing a complaint laid under subsection (1), a Provincial Court judge may, where satisfied that a companion animal or livestock is a nuisance and not kept under proper control or has bitten or attempted to bite a person or has injured, worried or pursued livestock or has injured other animals, make an order that the owner of the animal destroy the animal or take such action that the Provincial Court judge considers necessary in the circumstances.

(4) An order made under this section is in addition to another available penalty.

2010 cA-9.1 s36

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Authorization of inspector

37. The minister may authorize an inspector to destroy a companion animal or livestock found at large or kept contrary to this Part.

2010 cA-9.1 s37

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Animal at large

38. (1) Where an inspector finds an animal at large, the inspector may

(a) take and retain custody of the animal;

(b) arrange for necessary transportation, food, care, shelter and veterinary medical treatment.

(2) Subsection (1) shall not apply to an area where, in accordance with the law applicable to that area, an animal is permitted to be at large, unless the inspector has reasonable grounds to believe that the animal is the subject of an offence under this Part.

(3) Where an animal is taken into custody under subsection (1), the inspector may, in addition to another action that the inspector is authorized to take under this Part, carry out an action that the minister is authorized to carry out by subsection 13 (3), section 15 and section 17 with respect to the animal.

(4) Where money is paid to an inspector relating to expenses incurred by the inspector under subsection (3), the money shall

(a) be received on behalf of the employer of the inspector and become the property of the employer of the inspector; or

(b) be dealt with in the manner prescribed by regulation.

2010 cA-9.1 s38

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Impounding livestock

39. (1) The minister may authorize a person to impound livestock that is running at large.

(2) Where a person impounds livestock under subsection (1), he or she shall, not more than 48 hours after that impounding, inform the minister of it.

(3) Where livestock is impounded under subsection (1), the owner of that livestock shall, in accordance with the time period that may be prescribed by regulation, pay to the impounder the reasonable costs, which the minister may determine, for its care and maintenance while impounded.

(4) A person who has impounded livestock shall notify the minister of impounded livestock that has not been claimed by its owner and the minister shall arrange for the sale of that livestock by public auction and shall pay from the proceeds of that sale all reasonable costs of the impounding and sale.

(5) Funds remaining following a sale under subsection (4) shall be paid into the Consolidated Revenue Fund.

(6) A person may apply to the minister for the funds referred to in subsection (5) and where the person satisfies the minister that he or she was the owner of the livestock sold under subsection (4), within the time period as may be prescribed by regulation, the minister shall request that the

Minister of Finance pay those funds to that person and the Minister of Finance shall then pay the funds out of the Consolidated Revenue Fund to that person.

2010 cA-9.1 s39

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Prohibition

40. (1) The minister may, by order, prohibit the running at large or the keeping of a breed, class or species of animal within the province at large or an area specified in the order.

(2) From the date on which the order made under subsection (1) takes effect, a person shall not permit the running at large or the keeping of the breed, class or species of animal within the province at large or the area specified in the order.

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Prohibition

41. (1) A person who keeps an animal contrary to section 40 commits an offence.

(2) An animal found in an area where the keeping of it is prohibited under this section may be destroyed by an inspector or other person authorized by the minister.

(3) Where a person has been convicted under subsection (1), a Provincial Court judge may order that the animal to which that conviction applies be removed to an area where it may be lawfully kept or may order that a person destroy the animal within the time that the Provincial Court judge orders.

(4) An order made under subsection (3) is in addition to another available penalty.

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Failure to comply with Provincial Court order

42. (1) An order made under subsection 35 (3), 36 (3) or 41 (3) shall be carried out within the time ordered by the Provincial Court judge and where no time is specified, not more than 24 hours after that order has been made, and a person who does not comply with that order or this subsection is guilty of an offence.

(2) Where an order is made under subsection 35 (3), 36 (3) or 41 (3) and that order is not complied with within the time specified in the order or, where no time is specified, not more than 24 hours after that order has been made, a Provincial Court judge may order a person to carry out the order and the Provincial Court judge may order a person convicted under subsection 41 (1) or 42 (1) to pay the reasonable costs of the destruction and disposal of the animal.

(3) An order made under subsection (2) is in addition to another available penalty.

2010 cA-9.1 s42

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Investigation

43. (1) Where an inspector has reasonable grounds to believe that there is on, at or in a place an animal that is a nuisance or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to nuisance animals, the inspector may, with a warrant issued under subsection (2), enter the place and investigate, inquire into and examine anything in respect of which the investigation is being made.

(2) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that there is on, at or in a place an animal that is a nuisance or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to nuisance animals, may issue a warrant authorizing one or more inspectors named in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place by force where necessary, and subject to the conditions that may be specified in the warrant, to

(a) search for, examine and seize anything that will provide evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to nuisance animals;

(b) search for and examine the animals found there to ascertain whether there is an animal that is a nuisance;

(c) take samples from or perform or arrange for tests on living or dead animals, animal products, animal by-products, waste materials, bedding, food, drugs or other things related to an animal at, in or on the place, and may exhume or cause to be exhumed the carcass of an animal to do these things;

(d) take photographs or make videos, notes or other recordings;

(e) make copies of a record or thing;

(f) use or cause to be used a data processing system at the place to examine data contained in or available to the data processing system;

(g) reproduce a record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying;

(h) use or cause to be used copying equipment at the place to make copies of a record, book of account or other document;

(i) make those inquiries that the inspector considers necessary; and

(j) take custody of an animal that the inspector reasonably believes is a nuisance and equipment associated with that animal.

(3) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that there is at, on or in a place an animal that is a nuisance, or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to nuisance animals.

(4) Notwithstanding subsection (1), an inspector may exercise the powers referred to in this section without a warrant, in a place except a dwelling-house, where the conditions for obtaining a warrant exist but because of exigent circumstances it would not be practical to obtain the warrant.

(5) In subsection (4), exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

(6) Where an animal is taken into custody under subsection (1), the inspector may, in addition to another action that the inspector is authorized to take under this Part, carry out the actions that the minister is authorized to carry out in subsection 13 (3), section 15 and section 17 with respect to that animal.

(7) Where money is paid to the inspector for the cost of expenses under section 15 or following a sale under section 17 , the money shall

(a) be received on behalf of the employer of the inspector and become the property of the employer of the inspector; or

(b) be dealt with in the manner as prescribed by regulation.

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Provincial Court order

44. (1) A Provincial Court judge may, upon an application by an inspector, make an order authorizing the keeping in care of an animal that is in custody under this Part where,

(a) the owner of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under this Part, with an offence under this Act or the regulations; and

(b) the Provincial Court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that the animal may be a nuisance or its owner may not be able to keep the animal under proper control.

(2) The order made under subsection (1) may be made on such conditions as the Provincial Court judge considers appropriate, including providing for the return of the animal to its owner where

(a) the inspector is satisfied that there are no longer reasonable grounds to believe that the animal may be a nuisance or its owner may not be able to keep the animal under proper control and, where applicable, the owner has complied with an order issued under this section respecting the payment of expenses; or

(b) when the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.

(3) Where a Provincial Court judge makes an order under subsection (1), he or she may also order that the whole or a part of the cost of providing transportation, food, care, shelter or treatment to the animal be paid by the owner to the person who is authorized by the order to keep the animal in his or her care.

(4) A person who is authorized to keep an animal in his or her care or the owner of the animal may apply to a Provincial Court judge to vary an order made under subsection (3) and the Provincial Court judge may make such order as he or she considers appropriate.

(5) The owner of the animal may apply to a Provincial Court judge to order the return of an animal that is the subject of an order made under subsection (1) and, where satisfied that there are no longer reasonable grounds to believe that the animal may be a nuisance or the owner may not be able

to keep the animal under proper control, the Provincial Court judge may order the return of the animal to its owner, subject to conditions that the Provincial Court judge considers appropriate.

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Regulations

45. The Lieutenant-Governor in Council may make regulations

(a) for the control, protection and security of a breed, class or species of animal running at large or otherwise;

(b) prescribing the manner in which money paid to an inspector shall be dealt with;

(c) prescribing the manner and time periods for the impounding, sale and other disposal of animals; and

(d) for the purpose of this Part.

2010 cA-9.1 s45

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Conflict

46. Where this Part or the regulations conflict with the City of St. John's Act , the City of Corner Brook Act , the City of Mount Pearl Act , or the Municipalities Act, 1999 or regulations or bylaws made under those Acts, the provisions of this Part shall prevail.

2010 cA-9.1 s46

PART IV

HERITAGE ANIMALS

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Definitions

47. In this Part, "society" means an organization or group of persons, whether incorporated or not, designated by the minister to act in the protection of heritage animals.

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Heritage animals

48. (1) The minister may, by order, designate a certain class or breed of animals as heritage animals.

(2) In designating a class or breed of animals as heritage animals, the minister shall consider

(a) the historic, cultural, natural, scientific or aesthetic value of those animals; and

(b) other criteria that the minister considers appropriate.

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Protection of heritage animals

49. (1) A person shall not, except with the consent of the minister or his or her designate, destroy, interfere with, or dispose of a heritage animal.

(2) The minister may, by order, exempt a heritage animal from the application of subsection (1).

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Powers of minister

50. The minister may

- (a) designate a society to act in the preservation of heritage animals;
- (b) prescribe those sections of this Part and the regulations that the society may enforce; and
- (c) prescribe signs, symbols or images to describe heritage animals and the uses of those signs, symbols or images.

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Objects of society

51. The objects of a society designated by the minister under this Part shall be to

- (a) promote an appreciation for and an awareness of heritage animals;
- (b) support and contribute to the preservation and renewal of heritage animals; and
- (c) contribute to the increase and dissemination of knowledge about heritage animals.

2010 cA-9.1 s51

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Duties of society

52. Subject to the approval of the minister, a society designated under this Part shall

- (a) define the characteristics of a class or breed of animals designated as heritage animals;
- (b) prescribe the method of establishing a breed book for heritage animals;
- (c) keep and maintain a registry of heritage animals within the province;
- (d) enforce those provisions of this Part and the regulations as prescribed by the minister; and
- (e) prescribe by-laws for the enforcement of the society's duties under this section.

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Regulations

53. The Lieutenant-Governor in Council may make regulations

- (a) for the preservation, promotion and protection of heritage animals including
 - (i) the terms and conditions under which a heritage animal may be disposed of or destroyed,
 - (ii) the usage of heritage animals; and
- (b) to give effect to the purpose of this Part.

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Conflict

54. This Part shall not be construed as affecting a right, power, duty or prohibition relating to animals conferred or imposed under another Act or under another Part of this Act and, where a conflict exists between this Act and the other Act, or between this Part and another Part, that other Act or that other Part prevails.

2010 cA-9.1 s54

PART V

LICENSING

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Licence

55. (1) The Lieutenant-Governor in Council may by regulation require an activity, a person, or an establishment to be licensed for the purpose of this Act or a Part or provision of this Act.

(2) The minister may issue a licence in accordance with this Part.

(3) A person to whom subsection (1) applies shall not own or operate an establishment, or breed or keep an animal without a licence issued under this Part.

2010 cA-9.1 s55

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Application for licence

56. (1) An application for a licence shall be in the form required by the minister and the applicant shall pay the fee set by the minister.

(2) The minister may require further information or material to be submitted within a specified time by an applicant for a licence.

(3) The minister may require a statement made in support of an application for a licence to be verified by an affidavit.

(4) A person who makes a false statement of fact or misrepresents a fact or circumstance in an application or document submitted to the minister under this Act commits an offence.

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Licence

57. The minister may refuse to issue or renew a licence or may cancel or suspend a licence where

(a) the applicant or licensee does not or no longer meets the requirements of this Act and the regulations with respect to the class of licence applied for or held;

(b) the applicant or licensee or its officers or employees

(i) has made a false statement of fact or has misrepresented a fact or circumstance to an inspector or the minister,

(ii) has contravened this Act, the regulations, or the terms, conditions and restrictions to which the licence was subject,

(iii) has failed to comply with other legislation that may be applicable,

(iv) has been found guilty of misrepresentation, fraud, deceit or dishonesty,

(v) being a corporation, has been dissolved or has been struck off the register under the Corporations Act , or

(vi) being a natural person, has died; or

(c) in the opinion of the minister, it is in the public interest to do so.

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Terms and conditions of licence

58. (1) A licence issued under section 55 is subject to the terms, conditions and restrictions that may be consented to by the applicant, imposed by the minister, or prescribed by the regulations.

(2) The minister may, by written notice to a licensee, add to, remove or alter the terms, conditions or restrictions to which the licence is subject.

(3) A licensee shall comply with the terms, conditions and restrictions to which his or her licence is subject.

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Suspension or cancellation of a licence

59. (1) Where a licence is suspended or cancelled under section 57 ,

(a) the minister shall publish notice of the suspension or cancellation in the Gazette ; and

(b) the holder of the licence shall immediately return it to the minister.

(2) The minister may reinstate a suspended or cancelled licence where he or she considers it appropriate to do so.

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Production of licence

60. A person licensed under this Part shall produce his or her licence for inspection when requested to do so.

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Certificate

61. A certificate signed by the minister stating that on a specified day

(a) a person was or was not licensed under this Part;

(b) a licence was issued to a person; or

(c) a licence was suspended, cancelled or reinstated,

is admissible in evidence as, in the absence of evidence to the contrary, proof of the facts stated in the certificate.

2010 cA-9.1 s61

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Address for service

62. (1) An applicant for a licence shall state in the application an address for service in the province.

(2) A notice given under this Part or the regulations shall for all purposes be considered to be sufficiently served if delivered or sent by registered mail to the licensee at the address for service stated in his or her application for a licence, unless the licensee has notified the minister in writing of a change of address for service under section 63 , in which case that notice shall be sufficiently served where delivered or sent by registered mail to the licensee at the latest address for service of which the minister has been notified.

(3) Where a notice referred to in subsection (2) is sent by registered mail, it is considered to be served on the day it is deposited in the post office by the sender of the notice.

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Notice of change

63. A licensee shall, within 15 days of the change, notify the minister of

- (a) a change in his or her address for service;
- (b) a change in partners, in the case of a partnership; and
- (c) a change in directors, in the case of a corporation.

2010 cA-9.1 s63

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Annual return

64. (1) A person licensed under this Part shall file an annual return with the minister.

(2) An annual return filed under subsection (1) shall contain the information the minister may require.

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Regulations

65. The Lieutenant-Governor in Council may make regulations

- (a) respecting personal property rights of licensees in animals;
- (b) prescribing the requirement for an activity, person or establishment to be licensed;
- (c) governing applications for licences and prescribing terms and conditions of licences and the penalties for a breach of a provision of a licence;
- (d) respecting the suspension and cancellation of licences;
- (e) prescribing the books, accounts and records to be kept by a person licensed under this Act;

(f) requiring a person licensed under this Act to make returns and provide information to the minister; and

(g) to give effect to the purpose of this Part.

2010 cA-9.1 s65

PART VI

REGULATIONS AND FEES

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Regulations and fees

66. (1) The Lieutenant-Governor in Council may make regulations

(a) prescribing who may be an inspector for the purpose of this Act or for a provision or Part of this Act, and the terms and conditions of appointment;

(b) prescribing a municipal authority whose employees may be appointed as inspectors for the purpose of this Act or for a provision or Part of this Act;

(c) prescribing a municipal authority which may be given duties for the administration of this Act, or a Part or provision of this Act;

(d) prescribing investigation and inspection powers of inspectors under this Act or a Part or provision of this Act;

(e) respecting the detention and return or other disposition of a thing seized under a warrant or under a provision of this Act;

- (f) respecting the manner of taking an animal into custody;
- (g) defining what constitutes taking reasonable steps to find and notify the owner of an animal;
- (h) prescribing the manner and time periods for the detention, isolation, quarantine, sale and other disposal of animals;
- (i) prescribing prohibited practices or procedures;
- (j) prescribing the penalties for a breach of the regulations or of an order made under the regulations;
- (k) prescribing an animal as excluded from the definition of a companion animal;
- (l) prescribing an animal to be a fur bearing animal for the purpose of this Act and the regulations;
- (m) prescribing an animal to be livestock for the purpose of this Act and the regulations;
- (n) exempting classes of persons or animals or places or areas from the application of this Act, or a provision of this Act, or the regulations;
- (o) respecting the contravention of sections of this Act and the regulations for which proceedings may be commenced in the form of a ticket under the Provincial Offences Act and regulations and the fines associated with those offences;
- (p) to define a word for the purpose of a Part or the Act where the word is not defined in the Part or the Act;
- (q) to vary a definition for the purpose of a Part or the Act; and

(r) generally, to give effect to the purpose of this Act.

(2) The minister may set the fees and expenses and establish the forms which are required for the purpose and administration of this Act.

(3) Regulations may be made under this Act with retroactive effect.

(4) The Lieutenant-Governor in Council or the minister may in addition to or instead of regulations made under this Act adopt by reference and constitute as regulations the whole or a part or provisions of a code adopted or standard fixed, with or without modification, and including amendments to the code or standard of an organization acceptable to the Lieutenant-Governor in Council or the minister.

(5) A certificate of the minister that a document is a copy of a code or standard referred to in subsection (4) or an extract from, a modification of, or an amendment to, a code or standard is without further proof presumptive evidence of the content of that code, standard, extract or amendment.

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Prohibited practices and procedures

67. A person shall not engage in a practice or procedure specified as prohibited in the regulations.

2010 cA-9.1 s67

PART VII

INSPECTOR'S POWERS

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Inspector

68. (1) The minister may designate or appoint persons or a class of persons to be inspectors for the purpose of this Act, or a specific Part or provision of this Act, on such terms and conditions as the minister may specify, including the species of animal, the geographic area, and the term for which persons may be inspectors.

(2) For the purpose of this Act, the following are considered to have been designated under subsection (1):

(a) the Chief Veterinary Officer and staff veterinarians of the department; and

(b) a member of the Royal Newfoundland Constabulary or of the Royal Canadian Mounted Police.

(3) The minister may designate a person or a class of persons from another department of government under subsection (1), with the approval of the minister of that other department.

(4) The minister may, in writing, authorize a person employed in the department, or a person or class of persons designated or appointed under subsection (1), to perform and exercise those duties and powers conferred by this Act upon the minister that may, in the opinion of the minister, be conveniently performed or exercised by that person and the performance or exercise of those duties or powers by that authorized person or class of persons shall be of the same effect as if they were performed or exercised by the minister.

(5) The minister shall sign and issue a certificate of appointment to an inspector.

(6) A certificate issued to an inspector under subsection (5) is admissible in evidence, in the absence of evidence to the contrary, as proof of the designation of the inspector or his or her appointment under this Act without proof of the designation, signature or appointment by the minister.

(7) An inspector carrying out an action authorized under this Act shall, when requested to do so, produce

(a) his or her certificate of appointment; or

(b) in the case of an employee of the province, his or her identification card issued by the province that references the appointment as inspector under this Act.

(8) Subsections (5), (6) and (7) do not apply to peace officers.

(9) The minister may revoke or suspend the appointment or designation of a person as an inspector.

(10) The minister may specify in the terms and conditions of the inspector's appointment, the places where an inspector is authorized to carry out an inspection or an investigation under this Act.

(11) A person who is appointed or designated as an inspector may act only in accordance with the terms and conditions of his or her appointment.

(12) An inspector may in the course of carrying out an investigation or inspection under this Act ascertain the identity of an individual.

(13) An inspector may carry out inspection and investigation powers prescribed by regulation.

(14) An inspector may commence proceedings by the laying of an information, or by proceeding in the form of a ticket issued in accordance with the Provincial Offences Act and regulations, in respect of a violation of this Act or the regulations.

(15) An inspector may not carry out the prosecution of an offence under this Act.

Telewarrant

69. (1) Where in the opinion of an inspector it would not be practical to appear before a Provincial Court judge to apply for a warrant, the inspector may make the application by telephone, facsimile or other means of telecommunication.

(2) Where the information on which an application for a warrant is submitted by telephone, facsimile or other means of telecommunication, the information shall be given under oath or affirmation, and the oath or affirmation may be administered by telephone, facsimile or other means of telecommunication.

(3) The information submitted by telephone, facsimile or other means of communication shall include a statement of the circumstances that make it impracticable for the inspector to appear personally before a Provincial Court judge.

(4) The information submitted by telephone, facsimile or other means of communication shall also include a statement of the inspector's grounds respecting the purpose for which a warrant is requested under a section of this Act.

(5) The sworn or affirmed information submitted by telephone, facsimile or other means of telecommunication by an inspector shall specify the name of the person giving evidence, the facts ascertained and the manner and location in which evidence was received, and a record of that information shall be filed by the Provincial Court judge with the clerk of the court over which the judge presides.

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Use of force

70. An inspector shall use no more force than is reasonably required to enter or inspect a place.

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Detain a vehicle

71. A peace officer may detain a vehicle for the purpose of performing an inspection or an investigation authorized under this Act.

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Seizure and forfeiture

72. (1) An inspector who is lawfully in a place under this Act or a warrant issued under this Act or in a public place, may seize an animal or thing that is produced to the inspector or that is in plain view where the inspector has reasonable grounds to believe that the animal or thing produced or in plain view

(a) would afford evidence of an offence under this Act or the regulations; or

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

(2) This section does not apply to an animal in distress that has been taken into custody under Part II or an animal that is at large or a nuisance animal that has been taken into custody under Part III.

(3) An animal or thing that is seized under subsection (1) or under section 6 , 11 or 43 may be

(a) retained in the custody of the inspector;

(b) delivered into the custody of the person that the minister directs; or

(c) left in the custody of the owner.

(4) Where an animal or thing is left in the custody of the owner, the owner shall safeguard it until

(a) an inspector removes the animal or thing;

(b) the owner is notified by an inspector that the investigation has concluded and that a charge will not be laid; or

(c) where a charge is laid and disposed of, the owner is acquitted or the charge is dismissed or withdrawn.

(5) Where an animal is left in the custody of the owner, section 73 applies in addition to this section.

(6) An animal or thing that is seized and not forfeited under this section, or the proceeds of a sale under subsection (9), shall be returned or paid to the person from whom it was seized where,

(a) a charge is not laid at the conclusion of the investigation; or

(b) a charge is laid but, when the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.

(7) Where a person is convicted of an offence and a fine is imposed,

(a) an animal or thing seized in connection with the offence and not forfeited to the Crown under this section may not be returned until the fine has been paid;

(b) the proceeds realized from a sale under subsection (9), less the expenses involved in the sale, may be applied in or towards the payment of the fine; and

(c) where payment of the fine is in default, a Provincial Court judge may order that the thing be forfeited to the Crown.

(8) Where the identity of the person from whom an animal or thing is seized has not been ascertained within 30 days after the seizure, the animal or thing is forfeited to the Crown.

(9) A dead or living animal, animal product, animal by-product, waste material, food or other thing that is seized may be disposed of or sold by the Crown where, in the opinion of the person who has custody of it, it is likely to spoil or it cannot be properly maintained in custody.

(10) An animal or thing that is sold under subsection (9) shall be sold in the manner and for the price that may be determined by the minister.

(11) The proceeds of a sale referred to in subsection (9) shall be paid into the Consolidated Revenue Fund, and where a Provincial Court judge has not ordered that the proceeds of the sale be forfeited, then they may be paid to the person entitled to them.

(12) Where a person is convicted of an offence under this Act or the regulations, a Provincial Court judge may order that

(a) an animal or thing seized in connection with the offence, or the whole or a part of the proceeds of a sale under subsection (9) be forfeited to the Crown; and

(b) the person pay to the minister an amount of compensation for the reasonable costs, expenses and charges incurred by the minister or an inspector in the management, seizure, storage and disposition of an animal or thing seized in connection with the offence.

(13) Subsection (12) applies in addition to another penalty.

(14) Where a court orders a person to pay an amount of money as compensation under paragraph (12)(b), the amount may be recovered by the minister from the person to whom the order was directed as a debt owed to the Crown and the minister shall notify the person against whom the order was made of his or her determination of the amount of recoverable costs, expenses and charges.

(15) An animal or thing forfeited to the Crown shall be disposed of as the Minister directs.

(16) Where an animal or thing is forfeited to the Crown following a conviction under this Act, a person who claims an interest in the animal or thing and who is not the person from whom the animal or thing was seized, or the person who was convicted, may apply to a Provincial Court judge, not later than 30 days after the animal or thing is forfeited, on notice to the minister and to the person from whom the animal or thing was seized, for an order directing that the animal or thing be released to the person claiming the interest.

(17) An order made under subsection (16) is subject to such conditions as may be imposed by the Provincial Court judge.

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Custody in law

73. (1) Where there is authority given under this Act to seize or take custody of an animal, or to deliver custody of an animal to another person, and an inspector is of the opinion that it is not practicable to seize, take or deliver custody in fact of the animal, the inspector shall be considered to have seized or taken custody in law of the animal or have delivered custody in law of the animal to the other person.

(2) Where an inspector has taken or delivered custody in law of an animal, but the animal has been left in the custody of the owner,

(a) the inspector may require that the animal be detained by the owner, with the owner to be responsible for the standards of care that may be prescribed by regulation and to provide food, water, care, and treatment to the animal; or

(b) the custodian in law may provide food, care, shelter and veterinary medical treatment to animals in his or her care, may make management decisions with respect to the animals, and may carry out those activities authorized under this Act.

(3) The owner who continues to have custody in fact of the animal does not have a greater right to the animal than does the custodian in law, and the ability of the owner who continues to have custody in fact of the animal to deal with the animal, animal products, animal by-products, bedding, food, cages, equipment, supplies or other things related to the animal, is limited by the actions taken by the custodian in law under paragraph (2)(b).

(4) Where a person is a custodian in law of an animal under paragraph (2)(b), that person shall conspicuously post on the premises where the animal is situated, a notice stating that he or she has custody in law of the animal in accordance with that paragraph.

(5) A person who is not a custodian in law under subsection (1) and who purports to or who sells, bargains or assigns ownership of or otherwise alienates title to or an interest in an animal referred to in subsection (1), commits an offence.

(6) The custodian in law of an animal under subsection (1) may, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, enter without a warrant a place where the animal is located.

(7) Notwithstanding subsection (6), a custodian in law may not re-enter a dwelling house for the purpose of carrying out actions authorized under this section, unless

(a) that was a condition of the original warrant for entry into the dwelling house; or

(b) the occupant of the dwelling-house has consented to the re-entry.

(8) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that custody in law but not in fact has been taken of an animal and an

inspector has been prevented from entering a place, or that an inspector shall be prevented from entering a place under this section, may issue a warrant authorizing one or more inspectors named in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and carry out the activities authorized under this section, subject to the conditions that may be specified in the warrant.

(9) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that custody in law but not in fact has been taken of an animal and an inspector has been prevented from entering a place or that an inspector shall be prevented from entering a place for a purpose outlined in this section.

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Assistance to inspector

74. The person occupying or in charge of a place entered by an inspector, and a person found in that place, shall

(a) give the inspector, the veterinarian or other person who accompanies the inspector all reasonable assistance to enable the carrying out of an action authorized under this Act;

(b) furnish the inspector with the record or thing that the inspector may reasonably require to carry out an action authorized under this Act; and

(c) produce an animal that the inspector requires for viewing or examination.

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Obstruction prohibited

75. A person shall not

(a) obstruct or interfere with an inspector or other person engaged in the execution of this Act or the regulations; or

(b) provide an inspector or other person engaged in the execution of this Act with false information.

2010 cA-9.1 s75

PART VIII

OFFENCES AND PENALTIES

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Offence

76. (1) A person who contravenes this Act or the regulations or an order, licence or permit made under this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000 and, in default of payment, to a term of imprisonment not exceeding 6 months, or to both a fine and imprisonment.

(2) Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence is also guilty of the offence and on conviction is liable to the same penalty to which a person is liable for the offence, whether or not the corporation has been prosecuted or convicted.

(3) Notwithstanding subsection (1), where, with respect to an offence under this Act or the regulations, a proceeding is commenced by means of a ticket in accordance with the Provincial Offences Act, a person found guilty of that offence is liable on summary conviction to a fine that may be established by the regulations made under section 66.

(4) Where a person is convicted of an offence, a Provincial Court judge may, in addition to another penalty, make an order

(a) prohibiting that convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (2), from having the ownership, care or custody of an animal, or of a number or type of animal specified in the order, for a period of time specified in the order, including in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever; and

(b) directing that an animal in the ownership or care of that convicted person be delivered into the custody of the SPCA or the minister.

(5) Where a person is convicted of an offence, the court making the conviction may, in addition to another penalty, make an order that the convicted person pay the whole or a part of the cost of providing transportation, food, care, shelter or treatment provided to, and where applicable, management or destruction of, an animal that was the subject of the offence of which the convicted person was convicted.

2010 cA-9.1 s76

PART IX

GENERAL

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Municipal authority

77. (1) The minister may designate a municipal authority to administer this Act, a Part or provision of this Act within the municipality on behalf of the minister.

(2) A municipal authority is authorized to act under the designation of the minister.

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Enforcement by municipal officers

77.1 (1) Where an employee of a municipal authority is designated as an inspector and commences proceedings under this Act or the regulations by means of a ticket, a fine that is recovered in those proceedings shall be forwarded by the court imposing the fine to the municipal authority.

(2) The municipal authority shall pay to the province an amount that the Minister of Justice may establish for every ticket processed by the province.

2013 c1 s1

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Immunity

78. An action does not lie or shall not be instituted against an inspector, a veterinarian, the SPCA or an officer or employee of the SPCA, a municipal authority or councillor, an officer or employee of a municipal authority, the Crown, the minister or an employee of the province, or other person employed or engaged in the administration or enforcement of this Act, for loss or damage suffered by reason of anything done in good faith, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person, under or in the exercise or supposed exercise of a power conferred by this Act or the regulations or in carrying out or supposed carrying out of a duty imposed by this Act or the regulations.

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Certificates

79. In a prosecution under this Act or the regulations,

(a) where an inspector has made a copy of a record or thing that has been seized, examined or produced under this Act, the copy certified by the inspector to be a true copy is admissible in evidence, without proof of the office or signature of the certifying inspector, and has the same probative value as the original record or thing; and

(b) a certificate or report purporting to be signed by an analyst and stating that a substance or thing, or a sample of a substance or thing, has been submitted to and analyzed or examined by that analyst, and stating the results of the analysis, is admissible in evidence in a prosecution for an offence under this Act without proof of the signature or the official character of the person appearing to have signed the certificate or the report.

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PART X

REPEAL AND COMMENCEMENT

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RSNL1990 cW-8 Amdt.

80. (1) Paragraph 2(d) of the Wild Life Act is amended by adding immediately after the word "means" the words "wild life known as".

(2) Paragraph 7(1)(s) of the Act is repealed and the following substituted:

(s) to licence and issue permits to buyers, shippers, exporters of and dealers in furs, pelts and skins of wild animals and to control and regulate their dealings;

(3) Paragraph 7(1)(dd) of the Act is repealed and the following substituted:

(dd) to prohibit, control or regulate the importation of wild life and of fur bearing animals as defined in the Animal Health and Protection Act into the province and into the island portion of the province from Labrador ;

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Repeal

81. The following Acts are repealed:

(a) Animal Protection Act ;

(b) Dog Act ;

(c) Heritage Animals Act ;

(d) Livestock Act ; and

(e) Livestock Health Act.

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Commencement

82. This Act, or a provision or a Part of this Act comes into force on a day or days to be proclaimed by the Lieutenant-Governor in Council. (In force - May 2/12)

2010 cA-9.1 s82

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