



BILL NO. 84

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act to Amend Chapter 33 of the Acts of 2008, the Animal Protection Act

CHAPTER 50
ACTS OF 2011

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 15, 2011**

The Honourable John M^{ac}Donell
Minister of Agriculture

*Halifax, Nova Scotia
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**An Act to Amend Chapter 33
of the Acts of 2008,
the Animal Protection Act**

Be it enacted by the Governor and Assembly as follows:

1 Subsection 2(2) of Chapter 33 of the Acts of 2008, the *Animal Protection Act*, is amended by

- (a) striking out “or” at the end of clause (a);**
- (b) striking out the period at the end of clause (b) and substituting a semicolon; and**
- (c) adding immediately after clause (b) the following clauses:**
 - (c) deprived of adequate ventilation, space, veterinary care or medical treatment; or
 - (d) abused.

2 Section 13 of Chapter 33 is amended by adding “or another inspector appointed pursuant to subsection 11(1)” immediately after “Inspector” in the first line.

3 Section 15A of Chapter 33 is repealed.

4 Chapter 33 is further amended by renumbering Section 18A as Section 18AA and adding immediately before that Section the following Section:

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

- (a) slaughter;
- (b) food production;
- (c) sale;
- (d) hire;
- (e) exhibition;
- (f) sport;
- (g) transportation;
- (h) boarding;
- (i) breeding;
- (j) training;
- (k) research activities; or

(1) any activity prescribed by the Governor in Council.

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

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

(b) consult with standards-setting agencies prescribed by the regulations or, where the facility in which the research animals are kept is part of the Canadian Council on Animal Care audit program, the Canadian Council on Animal Care,

before taking any further action.

5 Section 18A of Chapter 33, as enacted by Chapter 45 of the Acts of 2010 and renumbered as Section 18AA by this Act, is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that Section.

6 Subsection 18B(2) is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that subsection.

7 Subsection 18C(1) is amended by adding “or peace officer” after “inspector” in the first line.

8 Subsection 21(6) is repealed.

9 Chapter 33 is further amended by adding immediately after Section 22 the following Section:

22A (1) Where the Minister, or a representative of the Minister, suspects a farm animal has been abandoned and the farm animal’s owner or custodian cannot be found, the Minister may inquire about the animal’s ownership by publishing an advertisement in the Royal Gazette or in a newspaper circulated in the county where the farm animal is located, once a week for two consecutive weeks, with a description of the farm animal and its location.

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

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

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

10 (1) Subsection 23(1) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that subsection.

(2) Subsection 23(2) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” in the first line.

(3) Subsection 23(3) is amended by adding “, the peace officer” immediately after “inspector” in the second line.

(4) Subsection 23(4) is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that subsection.

(5) Subsection 23(5) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” in the first line.

(6) Subsection 23(6) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” in the second line.

(7) Subsection 23(7) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” in the first and in the second lines.

(8) Subsection 23(8) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” in the first and in the second lines.

(9) Subsection 23(9) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that subsection.

(10) Subsection 23(10) of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that subsection.

11 Section 24 of Chapter 33 is amended by adding “or peace officer” immediately after “inspector” wherever it appears in that Section.

12 (1) Subsection 25(2) of Chapter 33 is repealed.

(2) Subsection 25(4) of Chapter 33 is amended by adding “or the Minister” immediately after “Society” in the second line.

(3) Subsection 25(4) of Chapter 33 is further amended by adding “or the Minister, as the case may be,” after “Society” in the third line.

(4) Subsection 25(5) of Chapter 33 is amended by adding “or a veterinarian acting under the direction of a peace officer” immediately after “officer” in the second line.

13 Section 26 of Chapter 33 is repealed and the following Section substituted:

26 (1) Where an animal is delivered or taken into the custody of the Society or the Minister pursuant to this Act, the Society or the Minister, as the case may

be, shall take reasonable steps to find the owner and inform the owner that the animal is in custody.

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

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

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

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

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

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

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

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

(b) where the owner is not found within seventy-two hours or, where found, does not request a review pursuant to subsection (7), may sell or give the animal to any person who, in the opinion of the Society or the Minister, as the case may be, will properly care for the animal.

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

(a) taking the animal into custody; or

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

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

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

(b) the Minister if the Provincial Inspector, another inspector or another person has taken the animal into custody for the Minister.

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

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

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

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

(a) taking the animal into custody; or

(b) keeping the animal in custody until the review decision is made.

14 (1) Subsection 27(1) of Chapter 33 is amended by striking out “subsection 26(3)” in the first line and substituting “subsections 26(4), (5) and (6)”.

(2) Subsection 27(2) of Chapter 33 is repealed.

(3) Subsection 27(3) of Chapter 33 is amended by

(a) adding “or the Minister” immediately after “Society” in the first line;

(b) adding “Section 26 or” immediately after “by” in the second line;

(c) adding “or the Minister, as the case may be,” immediately after “Society” in the second line; and

(d) adding “or the Minister” immediately after “Society” in the third line.

15 Chapter 33 is further amended by adding immediately after Section 27 the following Section:

27A (1) Where an animal is given to a person to care for on behalf of the Society or the Minister, the animal remains in the custody of the Society or the Minister, as the case may be.

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

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

(4) Where an animal is sold or given away pursuant to this Act,

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

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

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

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

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

16 Section 28 of Chapter 33 is repealed.

17 (1) Subsection 30(1) of Chapter 33 is amended by adding “or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person” immediately after “Minister” in the third and fourth lines.

(2) Subsection 30(2) of Chapter 33 is amended by

(a) adding “or retained in” immediately after “into” in the second line; and

(b) adding “or the owner of the animal” immediately after “Minister” in the fifth line.

18 Section 30A of Chapter 33 is repealed and the following Section substituted:

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

(a) retain custody of the animal; or

(b) sell the animal.

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

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

(a) where the application is successful, the money received in the sale; or

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

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

19 Section 32A of Chapter 33, as enacted by Chapter 45 of the Acts of 2010, is amended by striking out “cause to be permanently adopted” in the first and second lines and substituting “give away”.

20 Subsection 33(2) of Chapter 33, as amended by Chapter 45 of the Acts of 2010, is further amended by striking out “adopted by another person” in the last line and substituting “given away”.

21 Section 33A of Chapter 33, as enacted by Chapter 45 of the Acts of 2010, is amended by striking out “(1)” in the third line and substituting “(2)”.

22 (1) Section 35 of Chapter 33 is amended by adding immediately after subsection (1) the following subsection:

(1A) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, the judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just, in the circumstances for securing the person’s good conduct and for preventing the person from repeating the same offence or committing other offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(2) Subsection 35(3) of Chapter 33 is amended by adding “(1A) or” immediately after “subsection” in the second line.

23 Section 9 of Chapter 430 of the Revised Statutes of Nova Scotia, the *Small Claims Court Act*, as amended by Chapter 16 of the Acts of 1992, Chapter 8 of the Acts of 1999 (2nd Session), Chapter 10 of the Acts of 2002 and Chapter 58 of the Acts of 2005, is further amended by adding immediately after clause (b) the following clause:

(ba) notwithstanding subsection (1) of Section 5, for expenses that are payable pursuant to the *Animal Protection Act*, if the claim does not exceed twenty-five thousand dollars, exclusive of interest;
