



Animal Health & Welfare Act 2013

SUMMARY

The aim of the Act is to promote welfare and prevent harm, or “unnecessary suffering” to an animal.

“unnecessary suffering” is defined under the Act as:

pain, distress or suffering (whether physical or mental) that in its kind or degree, or in its object, or in the circumstances in which it occurs, is unreasonable or unnecessary;

AUTHORISED OFFICER

‘authorised officer’ means:

- (a) a member of the Garda Síochána,
- (b) an officer of Customs and Excise or
- (c) a person appointed under Section 37 (eg. ISPCA inspectors)

ACCOUNTABILITY

A person who has in his or her **possession** or under his or her **control** a protected

Section 56

Unless otherwise proven, owner is presumed to be the occupier or person in charge of the land or premises on which it was found.

DUTY TO PROTECT

A person who has in his or her **possession** or under his or her **control** a protected animal shall:

Section 11 (1)

Take all necessary steps to ensure that

- (a) the animal is kept and treated in a manner that—
 - (i) safeguards the health and welfare of the animal, and
 - (ii) does not threaten the health or welfare of the animal or another animal,

And

(b) all buildings, gates, fences, hedges, boundary walls and other structures used to contain the animal are constructed and maintained in a manner so that they do not cause injury or unnecessary suffering to the animal.

(2) A person who fails to comply with this section commits an offence.

(Note: If the person who has in his or her possession or under his or her control a protected animal is

not the owner, the owner shall ALSO have committed an offence)

PROTECTION FROM CRUELTY

Section 12 (1)

A person shall not

(a) do, or fail to do, anything or cause or permit anything to be done to an animal that causes unnecessary suffering to, or endanger the health or welfare of, an animal, or

(b) neglect, or be reckless, regarding the health or welfare of an animal.

(2) A person who contravenes this section commits an offence.

FEEDING

Section 13 (1)

(a) a sufficient quantity of wholesome and uncontaminated drinking water

(b) a quantity of suitable and wholesome food sufficient to satisfy the reasonable requirements of the animal

(c) such other nourishment having regard to its nature, type, species, breed, development, adaptation, domestication and state of health and to the animal's physiological or behavioural needs,

in accordance with established experience and scientific knowledge.

(2) A person shall not provide, or cause to be provided, to an animal, food or liquid—

(a) that does not satisfy the reasonable requirements of the animal, or

(b) which—

(i) is of a nature that may itself cause the animal injury, disease or unnecessary suffering, or

(ii) contains a substance which may cause the animal injury, disease or unnecessary suffering.

A person who fails to comply with this section commits an offence.

ABANDONMENT

Section 14 (1)

A person who has in his or her possession or under his or her control a protected animal shall not abandon the animal and if he or she does abandon the animal he or she is **not relieved of responsibility for the animal**

(2) A person who has in his or her possession or under his or her control a protected animal shall not, without reasonable excuse, leave the animal unattended unless he or she makes adequate provision for its welfare.

(3)

Adequate considerations include:

- (i) suitable, wholesome and uncontaminated food, water or other suitable liquid,
- (ii) shelter and warmth,
- (iii) adequate light and ventilation, and
- (iv) adequate exercise.

ANIMALS IN DISTRESS

Section 24 (1)

If an authorised officer has reasonable grounds for believing that a protected animal is injured or suffering or is in a state of acute neglect or distress, the officer may:

Take steps as appear to him or her to be immediately necessary to alleviate the animal's suffering, including—

(a) requiring a person apparently in possession or control of the animal to—

- (i) obtain any necessary veterinary attention from a veterinary practitioner for the animal, or
- (ii) provide appropriate shelter, food and drinkable water for the animal suitable to its needs,

or

(b) seizing and detaining the animal and any dependent offspring of the animal under [section 38 \(4\)\(v\)](#).

(2) Where an animal is seized and detained for the purposes of *subsection (1)*, an authorised officer may remove it, or arrange for it to be removed, to a place of safety, or such other place as the officer thinks fit.

MINORS

Section 22 (1)

A person shall not sell an animal to a person who is apparently under the age of 16 years.

POWERS OF AUTHORISED OFFICERS

Section 38

(1) For the purposes of this Act an **authorised officer** may:

(a) Enter and inspect, at all reasonable times, any land or premises where they have reasonable grounds for believing that

(i) an animal is or has been present

(a) Examine an animal

(b) Require the name and address of person in possession or control of an animal

(c) Inspect a vehicle in connection with an animal and require person to refrain from moving it

(d) Require person to produce records

(e) Inspect / copy records

(f) Set equipment to capture or restrain an animal

(2) Require a person to permit the animal to be examined

(3) Require the person to provide for inspection any record regarding the ownership of the animal or vehicle that the animal is in

(5) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he/she has obtained a search warrant under Section 45 unless they believe evidence of an offence may be disposed of or destroyed

(6) An authorised officer may be accompanied by other persons and may take any equipment to assist

(7) An authorised officer may use reasonable force, if necessary, to enter land or premises under this Act

(8) The authorised officer may seize and retain anything that they consider to be evidence for use in proceedings for an offence

Section 42

(1) Where an authorised officer is of the opinion that a contravention of this Act may have taken place or may be taking place, the officer may serve a notice (“animal health and welfare notice”) stating that opinion to the person who (i) appears to be the owner or (ii) the person in possession or control of an animal

(2) An animal health and welfare notice shall –

- (a) Require the person on whom the notice is served to take such action as specified in the notice
- (b) Inform the person on whom it is served that he / she may appeal the notice to the District Court under section 43 and
- (c) State that if the person on whom it is served fails to comply with the notice, he / she commits an offence and is liable to a penalty set out in section 52(2)

PENALTIES

Offences under the 2013 Act as listed above can be tried summarily or on conviction of indictment, with the latter resulting in greater penalties. The difference between the two is largely down to the severity of the harm caused by the crime.

Summary conviction - the above offences are prosecuted at first instance in the District Court, conviction resulting in:

- A fine between €250 - €1,000
- A prison sentence not exceeding 6 months
- Both

Conviction on Indictment - The District Court may decide, on the facts of the case, that the gravity of the offence exceeds its jurisdiction. In this circumstance it may transfer the case to a higher court to hear the case on indictment. If the case is heard in these higher courts, higher penalties apply:

- A fine up to €250,000
- A prison sentence not exceeding 5 years
- Both

Note there are other **minor offences which can incur a fine not exceeding €5,000:**

- Refusal to comply to order by authorised officer to take action based on their belief that you are committing an offence (e.g. they order you to feed your animal because it appears to be starving)
- A farmer allowing their animals to stray
- Selling an animal to a person under 16
- Preventing an authorised officer from helping a distressed animal

In addition to either summary conviction or conviction on indictment, a court may order forfeiture of any animal to which the offence applies. Furthermore, the Minister for Agriculture, the local authority, HSE, Gardai, or a close family member can apply to the District Court for a ruling that a person is incapable of taking care of animals and the court may disqualify the person from working with animals, owning animals or associating with animals in any capacity, actual or purported, for any period of time. This disqualification may be lifelong.

Control of Horses Act

Under the [Control of Horses Act, 1996](#), all local authorities (city and county councils) are responsible for the control of horses in their areas.

For those living in a **designated control area**, a licence is required in order to have a horse. A licence normally lasts for a year. The local authority keeps a publicly available register of all licences issued.

When applying for a licence, the applicant must satisfy the local authority that they are a fit person to keep a horse and. **The inspector must be satisfied that proper accommodation, food and water (and if necessary, veterinary attention) will be provided for the horse. The inspector must also be sure that the horse will not be treated cruelly.**

If a person under 16 owns a horse, the head of the household in which they live is considered to be the owner, as horses may not be sold to anyone under 16 years of age.

The Gardaí or staff authorised by the local authority has the power to inspect the individual's horse. They have fairly extensive powers of search and arrest if they suspect cruelty to horses.

If the local authority decides to grant a horse licence, the individual must arrange to have the horse implanted with a **microelectronic identification device by a vet before the licence is issued.**

It is also an offence to bring a horse into a Control Area that cannot be identified and does not have an identification device.

A horse must be accompanied and **be under the effective control of its owner** or the control of another responsible person if it is outside the owner's home or premises or the home or premises of the person in charge of it.

A person authorised by the local authority or a member of the Gardai may request that owners produce evidence of a horse licence. **Failure to produce evidence of a licence can result in an on-the-spot fine. Failure to pay the on-the-spot-fine can result in prosecution by local authority.**

It is important to remember that **it is illegal to allow a horse to graze, feed, stray or remain in a public place without the consent of the local authority.**

If an individual wishes to ride their horse on a public road, **the horse must have a licence, be fitted with a bridle and be under the control of someone over 16 years of age.**

An individual may be arrested without warrant if they fail to comply with most of these offences. If convicted, offenders may be fined or imprisoned (or both) and may be disqualified from keeping a horse for a period. The court may seize the horse and dispose of it as it sees fit.

Owners may be **disqualified from keeping, dealing in or having charge or control of a horse for a limited period** (or for life) if they have been convicted of an offence relating to:

- The individual's horse being a nuisance
- The individual's horse posing a danger to people or property
- Unsatisfactory conditions in which the horse is being kept
- The horse being ridden/driven in an area where the local authority deems it a danger or nuisance