



Department of

**Agriculture and
Rural Development**

www.dardni.gov.uk

AN ROINN

**Talmhaíochta agus
Forbartha Tuaithe**

MÁNNYSTRIE O

**Fairms an
Kintra Fordèrin**

Media Brief

Welfare of Animals Act (NI) 2011

20 February 2016

Department of Agriculture and
Rural Development
Dundonald House
Upper Newtownards Road
Ballymiscaw
Belfast BT4 3SB

www.dardni.gov.uk/

General queries:

DARD helpline: 0300 200 7852

dardhelpline@dardni.gov.uk

Media queries:

DARD Press Office: 028 9052 4619

pressoffice.group@dardni.gov.uk

Out of office hours: Pager no. 07699 715 440
(your call will be returned).

Media Brief: The Welfare of Animals Act (NI) 2011

This briefing paper has been published by the Department of Agriculture and Rural Development (DARD) to assist the media in understanding the Welfare of Animals Act (NI) 2011, including its purpose, the responsibilities it places on people who are responsible for animals, the powers it provides for inspectors and constables, and the enforcement arrangements in place.

Background

The Welfare of Animals Act (NI) 2011 (the 2011 Act) replaced the Welfare of Animals Act (NI) 1972, which had allowed intervention and prosecution only after cruelty or unnecessary suffering had occurred.

The 2011 Act introduced a duty of care in respect of all “protected animals” (i.e. animals under the control of a person whether permanently or temporarily) and created an offence of failing to take reasonable steps to ensure that the welfare needs of that animal are met. It specified that abandoning an animal is an offence whether the animal is likely to suffer or not.

The 2011 Act provided new enforcement powers to allow action to be taken to protect animals from unnecessary suffering, for example:

- an inspector (or constable) may take into their possession an animal which is suffering or likely to suffer (as opposed to waiting until the suffering has occurred);
- a person can be deprived of possession or ownership of an animal on conviction for certain specified offences; and
- a person can be disqualified from participating in animal-related activities following conviction for certain offences.

The 2011 Act is enforced by DARD inspectors (farmed animals only), Council inspectors (other animals, such as domestic pets and horses), and PSNI constables. Welfare organisations and charities do not have powers of enforcement under the 2011 Act.

Main provisions of the 2011 Act

The 2011 Act:

- sets out circumstances in which a person who causes or permits an animal to suffer unnecessarily (including both physical and mental suffering) commits an offence;
- provides the same level of protection for both farmed and non-farmed animals;
- sets out “the five needs” of an animal:
 1. the need for a suitable environment;
 2. the need for a suitable diet;
 3. the need to be able to exhibit normal behaviour patterns;
 4. any need to be housed with, or apart from, other animals; and
 5. the need to be protected from pain, suffering, injury and disease;
- sets out a range of prohibited procedures, which are those which interfere with the sensitive tissue and bone structures of an animal, and bans the docking of dogs’ tails (subject to exemptions);
- prohibits the administration of poisons to a protected animal;
- provides powers for inspectors to issue Improvement Notices to those responsible for an animal to require them to meet the animal’s needs, and provides that failure to comply with a Notice is an offence;
- provides penalties for animal welfare offences of:
 - for conviction on indictment, a maximum of two years imprisonment and/or an unlimited fine; and
 - on summary conviction, a maximum of 6 months imprisonment and/or a £5,000 fine;

NB: With the Justice (No 2) Bill amendment which will become law shortly that will change to:

- for conviction on indictment, a maximum of **FIVE years imprisonment and/or an unlimited fine;** and
- on summary conviction, a maximum of **TWELVE months imprisonment and/or a £20,000 fine;**

- enables a court to confiscate an animal from an owner, and disqualify a person from owning, keeping, or participating in the keeping of an animal;
- provides powers of enforcement for Councils to appoint inspectors to implement and enforce provisions in respect of non-farmed animals, such as domestic pets and horses;
- provides powers of enforcement for DARD to appoint inspectors to implement and enforce provisions in respect of farmed animals;
- provides enforcement powers for the Police Service of Northern Ireland (PSNI), for example, in respect of animal fighting, including dog fighting;
- provides for DARD to make regulations to secure the welfare of animals, to license or register activities involving animals, and to prohibit the keeping of certain animals; and
- enables DARD to issue Codes of Practice (CoP) for the purpose of providing practical guidance to facilitate compliance with welfare responsibilities.

Animal Fighting

The 2011 Act provides for a number of offences in relation to animal fighting, which is defined as an occasion on which a protected animal is placed with an animal or with a human for the purpose of fighting, wrestling or baiting. This can include an animal fight involving two wild animals.

It is an offence to:

- take part in or be present at an animal fight or cause, or attempt to cause, an animal fight to take place;
- knowingly publicise or provide information to encourage attendance at an animal fight, or receive money for admission to an animal fight;
- make or accept bets on an animal fight;
- manage premises for animal fighting, or own or have possession of anything designed for animal fighting;
- keep or train an animal for fighting; or
- without lawful authority or excuse, knowingly supply or publish, or show to another, a photograph, image or video recording of an animal fight, or possess such material with the intention of supplying it. This does not apply in the case of material for inclusion in a programme service (as defined in the Communications Act 2003 (c. 21)).

Hunting

The 2011 Act specifically exempts from its provisions the coursing or hunting of any animal, other than a protected animal, except under certain circumstances such as the animal being released in an injured state or into a confined space from which it has no reasonable chance of escape. Therefore DARD has no powers to regulate, or ban, hunting or coursing with dogs.

DOE has responsibility for the Wildlife (NI) Order 1985, although again, that does not include powers to ban hunting.

Any ban on hunting would require additional powers to be taken in primary legislation.

Enforcement

Enforcement options

Inspectors have a range of options when dealing with an animal welfare case and will assess all available evidence in deciding which course of action is appropriate. The options are:

- providing advice;
- giving a warning;
- issuing the owner with a legally binding Improvement Notice; and
- prosecution.

An Improvement Notice will specify the nature of the non-compliance, the remedial action required to achieve compliance, and the time allowed to complete the required work.

Inspectors will follow up on Improvement Notices to ensure that the person has complied. In the case of non-compliance, and depending on the offence, the inspector may issue an extension to the Improvement Notice or consider prosecution.

Council enforcement (non-farmed animals)

Council inspectors have statutory powers to enforce the 2011 Act in respect of non-farmed animals, for example, domestic pets of any vertebrate species and equines.

Prior to the 2011 Act, no single organisation in Northern Ireland was wholly responsible for the enforcement of non-farmed animal welfare legislation.

The animal welfare service provided by Councils is funded on an annual basis by DARD, although Councils have discretion over how they enforce the legislation. It is managed by an Animal Welfare Project Board.

The Councils use a cluster approach to deliver the animal welfare service, based on five Councils regions. A lead co-ordinating Council (Fermanagh and Omagh District Council) liaises directly with DARD and the other Councils.

Animal Welfare Officers (AWOs) deliver the service on the ground with management and administrative support. They are trained by a variety of bodies, including the Royal Society for the Prevention of Cruelty to Animals (RSPCA), the Donkey Sanctuary and DARD's College of Agriculture, Food and Rural Enterprise (CAFRE).

The number of cases investigated by Councils since commencement of the animal welfare service on 2 April 2012, to 30 September 2015, is shown in Table 1; and the number of Improvement Notices issued, prosecutions initiated and convictions secured under the 2011 Act, during the same period, is shown in Table 2.

The number of prosecutions initiated, and convictions secured, has increased steadily as the Council's animal welfare service has bedded in since it began work in April 2012.

Table 1: Animal welfare cases investigated by Councils

Year	Number of Cases
2012-13	4,280
2013-14	4,952
2014-15	4,754
2015-16 (to 30 Sept 15)	2,291
Total	16,277

Table 2: Council Improvement Notices and prosecutions

Year	Improvement Notices	Improvement Notices Complied With	Prosecutions	Convictions under the 2011 Act
2012/13	189	164	1	1
2013/14	215	183	3	3
2014/15	194	165	28	28
2015/16 (to 30 Sept 15)	98	65	9	9
Total	696	577	41	41

DARD enforcement (farmed animals)

DARD inspectors have statutory powers to enforce the 2011 Act in respect of farmed animals, which are animals bred or kept for the production of food, wool or skin or for other farming purposes.

DARD VS carry out between 700 and 1,000 farm animal welfare inspections annually. Farms are targeted for inspection:

- where previous history gives reasonable grounds to suspect that animal welfare

may be at risk of compromise;

- in response to complaints from the general public, other agencies or DARD officials; or
- as part of EU Cross-Compliance requirements.

In 2014, 711 welfare inspections were undertaken and compliance was 86%.

Table 3 shows the number of ongoing investigations (cases before the courts) and convictions from 1 January 2012 until 30 September 2015.

Table 3: DARD prosecutions and convictions

Year	Convictions under the 2011 Act	Cases before the court*
2012	0	1
2013	2	2
2014	6	6
2015 (to 30 Sept 2015)	12	3
Total	20	12

* Number of cases that were ongoing through the courts on 30 September 2015 each year.

PSNI enforcement

PSNI constables have statutory powers to enforce the 2011 Act in respect of welfare offences involving wild animals and for the more serious animal welfare offences, such as animal fighting, or where other criminal activities are involved.

The PSNI also has legal responsibility where an animal is found wandering on the public road under the Animals (NI) Order 1976 and the Roads (NI) Order 1993.

In addition, the PSNI enforces the Wildlife (NI) Order 1985 as amended by the Wildlife and Natural Environment Act (NI) 2011. This Act contains legislation which protects the welfare of wild animals and, in some cases, overlaps with the 2011 Act.

The number of cases reported to the PSNI has reduced significantly since the Councils began their enforcement role following introduction of the 2011 Act, as shown in Table 4.

Table 4: Total incidents reported to PSNI and animal welfare/cruelty related reports

Year	Total incidents reported to PSNI	Animal welfare/cruelty related reports
2011	491,059	2,169
2012	488,537	1,603
2013	493,709	1,245
2014	502,385	821
2015 (to Aug 2015)	323,784	853

Enforcement contacts

Councils

Councils have five contact telephone numbers for the animal welfare service, one for each of the regions.

- Belfast - 028 90 270431
- eastern Area (Lisburn & Castlereagh Council, Ards & North Down District Council) - 028 90 494567
- northern Area (Mid & East Antrim District Council, Causeway Coast & Glens District Council, Antrim & Newtownabbey Borough Council) - 028 2563 3134
- southern Area (Armagh City, Banbridge & Craigavon Borough Council, Newry, Mourne & Down) - 028 37 515800
- western Area (Fermanagh & Omagh, Derry & Strabane, Mid-Ulster) - 028 82 256226

Councils also have a single number for an emergency out-of-hours service, which is provided on the answering service message outside normal office hours.

DARD

DARD provides one telephone number for "Animal Health and Welfare, and Veterinary Public Health" and calls are then referred to the relevant DARD Direct offices. In addition there is also a dedicated DARD Helpline number.

- during office hours - Monday to Friday 9am-5pm telephone - 0300 200 7840
- at weekends contact a local Private Veterinary Practice or local Police station who will, as necessary, refer the welfare complaint to the relevant DARD "on call" officer.

PSNI

The PSNI provides a single contact telephone number (101) for non-emergency calls about a welfare issue involving wild animals or animal fighting, as well as 999 for emergency calls.

Penalties

The maximum penalties in the 2011 Act for animal welfare offences are currently:

- for conviction on indictment, a maximum of two years imprisonment and/or an unlimited fine; and
- on summary conviction, a maximum of 6 months imprisonment and/or a £5,000 fine.

The Review of the Implementation of the 2011 Act recommended that the maximum penalties are increased as set out below. These changes will ensure that the penalties available to the courts for the most serious animal welfare offences are amongst the toughest sentences available in the British Isles.

Recommended increase in maximum penalties:

- On summary conviction for the offences of causing unnecessary suffering (section 4) and animal fighting (sections 8(1) & 8(2)) – increase to twelve months imprisonment, or a fine not exceeding £20,000, or both;
- On conviction on indictment for all relevant offences – increase to five years imprisonment (the unlimited fine will remain the same);
- The following “summary only” offences to be made hybrid, which will allow the most serious cases to be heard in the Crown Court -
 - supplying, publishing, showing and possessing with intent to supply photographs, images or video of an animal fight;
 - breaching a disqualification order; and
 - selling or parting with an animal pending the outcome of an appeal to a deprivation order.
- Additionally, the range of ancillary post-conviction powers available to the courts following conviction for animal fighting offences are to be extended so that they are also available following a conviction for supplying, publishing, showing and possessing with intent to supply photographs, images or video of an animal fight. This would, for example, give courts the power to confiscate an animal from an owner convicted of supplying images or video of an animal fight, and to disqualify such persons from owning or keeping animals.

The required amendments to the 2011 Act are being taken forward in the Justice (No 2) Bill 2016.

Unduly lenient sentencing

The Department of Justice's Unduly Lenient Sentencing (ULS) scheme list offences which can be referred to the Court of Appeal by the Director of Public Prosecutions (DPP) where the sentence handed down, in cases heard in the Crown Court, is considered to be "unduly lenient".

The Review of the Implementation of the 2011 Act recommended that the offence of causing unnecessary suffering, and animal fighting offences, should be included in the ULS scheme. These are offences that have in the past given rise to cases which generated a high level of public concern and had the potential to damage public confidence in the Criminal Justice System.

The Criminal Justice Act 1988 (Reviews of Sentencing) Order (NI) 2016 will add these offences to the ULS scheme when it comes into operation on 1 April 2016.

Sentencing guidelines

Guidelines for animal welfare offences heard in the magistrates' courts have been developed by the Lord Chief Justice's Sentencing Group and are available on the Judicial Studies Board website – www.jsbni.com/Publications/sentencing-guides-magistrates-court/Pages/default.aspx.

Guideline judgments for animal welfare cases heard in the Crown Court will become available as suitable cases come before the Court of Appeal.

Statutory Rules made under the 2011 Act

DARD has made regulations under 2011 Act to secure the welfare of animals by laying down detailed rules on how they are kept and on the procedures applied to them:

- The Welfare of Animals (Permitted Procedures by Lay Persons) Regulations (NI) 2012
- The Welfare of Farmed Animals Regulations (NI) 2012, (the 2012 Regulations)
- The Welfare of Animals (Docking of Dogs' Tails and Miscellaneous Amendments) Regulations (NI) 2012
- The Welfare of Animals (Dog Breeding Establishments and Miscellaneous Amendments) Regulations (NI) 2013, (the 2013 Regulations)

The farmed animals and dog breeding Regulations are discussed further below.

Farmed animals

The 2012 Regulations transpose various pieces of European legislation which establish the minimum standards required to ensure the needs of farmed animals are met. DARD inspectors enforce these Regulations.

Dog breeding

A dog breeding establishment is defined as "one or more premises, within the same District Council area, operated by the same person from which that person keeps three or more breeding bitches; and

- (a) breeds three or more litters of puppies in any 12 month period;
- (b) advertises three or more litters of puppies for sale in any 12 month period; or
- (c) advertises a business of breeding or selling pups."

They set out the welfare standards with which commercial breeders must comply to obtain a dog breeding licence. As a minimum, 12 conditions must be met by the breeding establishment, for example, on accommodation, environment, whelping facilities, and diet. Action can be taken where a breeder does not meet these conditions.

Enforcement of this legislation is carried out by Council Enforcement Officers (as part of Council Dog Warden Services). They work in conjunction with Council Animal Welfare Officers (AWOs) where there are particular animal welfare concerns.

Petshops etc

DARD currently has responsibility for the licensing and inspection of petshops, animal boarding, riding and zoological establishments, under the Welfare of Animals Act (NI) 1972. This function will transfer to Councils when new subordinate legislation is made under the 2011 Act.

Codes of Practice

DARD has published the following Codes of Practice under powers provided by the 2011 Act:

Farmed Animals

Beef Cattle
Dairy Cattle
Meat Chickens
Sheep
Laying Hens
Pigs

Non-Farmed Animals

Cats
Dogs
Horses, Ponies, Donkeys and their Hybrids
Primates
Rabbits

Failure to comply with a Code of Practice is not of itself an offence; however, in any proceedings for an offence under the 2011 Act failure to comply with a relevant provision of such a Code of Practice may be relied upon as tending to establish liability, and compliance with a relevant provision of such a Code of Practice may be relied upon as tending to negative liability.

Equines

The welfare of equines (horses, ponies and donkeys) is protected under the 2011 Act in the same way as any other protected animal.

Abandoned equines

Councils have powers under the 2011 Act to take action, in the case of equines abandoned on land, only if the animal is suffering or is likely to suffer if its circumstances do not change.

When investigating a report of an abandoned equine, the Council AWO will consider the condition of the animal and its environment. If the animal's welfare isn't adversely affected, the AWO has no power to seize the animal but will instead try to trace the owner, while continuing to make regular visits to check that there has been no deterioration in the animal's condition or environment.

If the animal's welfare is compromised, the AWO has the power to seize the animal and take it into the Council's possession. The AWO will arrange for the care of the animal whilst a Disposal Order for it is sought through the Courts.

The Roads Order

The Roads (NI) Order 1993 makes it an offence for a person to turn loose any animal onto a road and for an animal to be wandering or lying on the side of a road, unless the keeper has taken reasonable precautions to prevent the situation. In such cases the PSNI can seize the animal and prosecute the keeper.

The 1976 Order

The Animals (NI) Order 1976 (the 1976 Order) is about civil liability and covers matters such as animals causing damage or straying onto neighbouring land. The legislation deals with issues between private individuals, but also provides powers for the PSNI to impound animals wandering on public roads.

DARD and Councils have no enforcement responsibilities under this legislation and there are no provisions relating to animal welfare contained within it.

A landowner may detain animals abandoned on his or her property. This right ceases after 48 hours, unless he or she has notified the PSNI and the owner (if known). It is considered as good practice by the landowner to place a notice regarding the animals on the land and give a copy of the detention notice to the PSNI. If, after 14 days, no one has claimed the

animals, the landowner may sell them at market or public auction. Any expenditure incurred by the landowner may be recovered in the event of the sale of the animals.

In the case of equines abandoned or wandering on the road, the 1976 Order gives the PSNI powers to impound the animal and arrange for its care. The PSNI are obliged to post notices advising that they have impounded the animal, before retaining the animal for a period of 14 days, and then arranging for the sale of the animal at a market or public auction.

Equine identification

The Horse Passports Regulations (NI) 2010, on the identification of equines, are intended to ensure that they do not enter the human food chain if they have been treated with certain veterinary medicines harmful to human health.

The regulations require that:

- equines born after 1 July 2009 are microchipped and have a passport (with details corresponding to the microchip);
- equines are accompanied by their passports when being transported (unless in an emergency); and
- the owner who sells an equine gives its passport to the buyer at time of sale.

From 2016, Commission Regulation (EU) 2015/262 will require the establishment of a central equine database for each Member State listing all equines.

Further information

DARD has established a web page hosted by NI Direct at www.nidirect.gov.uk/animal-welfare, which brings together information from each of the enforcement bodies (Councils, DARD and PSNI) and explains how to contact each of those organisations to report a welfare concern. It also provides information and advice on keeping animals and on the requirements of the 2011 Act.

The NI Direct page links to further detailed information on each of the enforcement bodies' websites. A selection of useful links is provided below.

DARD's animal welfare webpage:

www.dardni.gov.uk/topics/animal-health-and-welfare/animal-welfare

Councils' websites:

www.nidirect.gov.uk/index/contacts/local-councils-in-northern-ireland.htm

The PSNI's welfare webpage:

www.psnipolice.uk/index/crime-prevention/wildlife/wildlife-crime.htm

Codes of Practice for non-farmed animals:

www.dardni.gov.uk/publications/codes-practice-non-farmed-animals

Codes of Practice for farmed animals:

www.dardni.gov.uk/publications/codes-practice-farmed-animals

The Welfare of Animals Act (NI) 2011:

www.legislation.gov.uk/niu/2011/16/contents

The homepage of the Review of the Implementation of the Welfare of Animals Act (NI) 2011:

www.dardni.gov.uk/publications/review-implementation-welfare-animals-act-ni-2011