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Bill 136

(Chapter 13 of the Statutes of Ontario, 2019)

An Act to enact the Provincial Animal Welfare Services Act, 2019 and make consequential amendments with respect to animal protection

The Hon. S. Jones
Solicitor General

1st Reading	October 29, 2019
2nd Reading	November 27, 2019
3rd Reading	December 5, 2019
Royal Assent	December 5, 2019



EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 136 and does not form part of the law.
Bill 136 has been enacted as Chapter 13 of the Statutes of Ontario, 2019.*

The Bill enacts the *Provincial Animal Welfare Services Act, 2019*, repeals the *Ontario Society for the Prevention of Cruelty to Animals Act* and makes consequential amendments to other Acts. The major elements of the Bill are described below.

Part I (Interpretation)

This Part defines terms that are used throughout the Act.

Part II (Chief Animal Welfare Inspector)

This Part establishes a Chief Animal Welfare Inspector.

The Minister appoints the Chief Animal Welfare Inspector and may appoint deputy Chief Animal Welfare Inspectors. The Minister has duties to monitor the Chief Animal Welfare Inspector and handle complaints about him or her. In addition, the Minister may establish policies and give directions to the Chief Animal Welfare Inspector.

The Chief Animal Welfare Inspector has several duties related to the appointment and oversight of animal welfare inspectors as well as the provision of necessities for animals in the Chief Animal Welfare Inspector's care. He or she is an animal welfare inspector by virtue of being the Chief Animal Welfare Inspector.

The Chief Animal Welfare Inspector appoints animal welfare inspectors. These appointments may be subject to conditions or limitations and may be amended, suspended or revoked by the Chief Animal Welfare Inspector. The animal welfare inspectors, including the Chief Animal Welfare Inspector, are subject to a code of conduct.

Part III (Complaints)

This Part governs complaints about the conduct of animal welfare inspectors, including the Chief Animal Welfare Inspector. The Minister handles complaints about the Chief Animal Welfare Inspector, and the Chief Animal Welfare Inspector handles all other complaints.

The Chief Animal Welfare Inspector and the Minister shall investigate complaints if they believe the matter complained of warrants investigation. If they discover that the animal welfare inspector who is the subject of the complaint has failed to comply with the code of conduct, they can take several actions against them, up to and including revoking their appointment.

Part IV (Duties and Prohibitions)

This Part sets out several duties and prohibitions in respect of animals.

Every person who owns or has custody or care of an animal must comply with the standards of care and administrative requirements with respect to the animals. These standards and requirements are established by regulation. There are exceptions for certain agricultural and veterinary activities. Veterinarians have a duty to report abuse, undue physical or psychological hardship, privation or neglect.

No person shall cause an animal to be in distress, permit an animal to be in distress or knowingly or recklessly cause an animal to be exposed to an undue risk of distress, subject to certain exceptions.

There are several prohibitions relating to animal fights, including prohibitions on the possession of equipment or structures used in animal fights. There is a separate prohibition for causing harm or attempting to cause harm to law enforcement or service animals.

No person shall possess or breed an animal that has been prescribed by the regulations as a prohibited animal. Orca possession and breeding continues to be prohibited. In addition, the possession or breeding of animals that are prescribed by the regulations as a restricted animal requires authorization by the regulations.

Engaging in prescribed activities without an authorization and causing animals to undergo prescribed procedures are also prohibited.

Possessing, purchasing or selling an item which may cause an animal distress and which is prescribed by the regulations is also prohibited.

Part V (Protection of Animals)

This Part sets out some of the powers animal welfare inspectors have to determine compliance with the Act and protect animals.

Animal welfare inspectors may enter and inspect places to determine compliance with certain requirements in the Act. They may apply for warrants to enter certain places, and require a warrant to enter a dwelling unless the occupier of the dwelling consents to the entry. They may ask for police assistance and may use reasonable force to execute a warrant.

Their inspection powers include the powers to inspect certain animals or things, to require the production of any animal or thing that is relevant to the inspection, to ask questions relevant to the inspection and to make reasonable inquiries.

Animal welfare inspectors may also enter and search a place with the consent of the occupier if they believe on reasonable grounds that there is an animal in distress to be found there. They may also apply for a warrant to search the place.

Inspectors may enter any place, other than a dwelling, without a warrant if they have reasonable grounds to believe that an animal is in critical distress and may enter a dwelling if the time required to obtain a warrant may result in serious injury or death to the animal.

An animal welfare inspector who has reasonable grounds to believe that an animal is in distress may order the owner or custodian to take certain actions to relieve its distress or have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Animal welfare inspectors may take possession of animals in distress if these orders aren't complied with. They may also take possession on the advice of a veterinarian or in cases where the owner or custodian cannot be found promptly, or in cases where the animal is being trained to, or participating in, an animal fight. The police may be called to assist and reasonable force may be used to take possession of the animal. The Chief Animal Welfare Inspector may then decide to keep an animal in the Chief Animal Welfare Inspector's care if certain concerns about returning the animal apply. Animal welfare inspectors may also cause an animal to be euthanized with the consent of the owner or custodian or in accordance with a veterinarian's opinion.

Persons to be prescribed in regulation are authorized to enter motor vehicles to relieve animals in critical distress. They may cause reasonable damage in entering the vehicle. They must promptly notify an animal welfare inspector and must allow the inspector to inspect the animal and determine whether to take possession of it.

Owners or custodians are liable for the Chief Animal Welfare Inspector's expenses in providing necessities to animals in the Chief Animal Welfare Inspector's care.

Part VI (Animal Care Review Board)

The Animal Care Review Board is continued. Owners or custodians of animals may appeal certain orders and decisions of the Chief Animal Welfare Inspector and other animal welfare inspectors to the Board. The Board has the power to confirm, revoke or modify these orders and decisions and to order that animals be returned to their owner or custodian.

Part VII (Enforcement)

This Part sets out the powers of animal welfare inspectors to investigate offences under the Act. The inspectors may apply for warrants to investigate potential offences. A warrantless search may be authorized if the inspector has reasonable grounds to believe that the time required to obtain a warrant would lead to the loss, removal or destruction of evidence.

Inspectors may ask the court to issue production orders to a person, other than a person under investigation for an offence, and may seize certain animals or things related to the commission of an offence under the Act. Animals seized as a result of a contravention of the prohibitions against animal fighting are automatically forfeited to the Crown in right of Ontario. Similarly, animals or things whose possession is prohibited are also forfeited to the Crown.

Animal welfare inspectors who have reasonable grounds to believe a person is contravening, has contravened or is about to contravene certain provisions of this Act may require the person to give his or her name and address. The inspectors may call upon police to assist the inspector and may use whatever force is reasonably necessary to exercise their powers under this Part.

Part VIII (Offences and Penalties)

This Part sets out both minor and major offences under the Act, which are subject to different penalties.

It also provides for administrative penalties for contraventions of conditions of authorizations issued under section 20 (Restricted animal possession or breeding) or 21 (Prescribed activities) or for other prescribed provisions. It allows the Chief Animal Welfare Inspector to issue notices of contravention in respect of these contraventions and sets out a scheme for enforcing and collecting on these penalties.

A separate section provides for orders to remove orcas that are possessed in Ontario in contravention of section 19.

Part IX (General)

This Part sets out some of the powers of police officers and First Nations Constables in respect of animals. It also sets out an authority for veterinarians to euthanize animals.

General rules for forfeitures under the Act are set out. An immunity provision provides for protection from personal liability for a number of different persons.

Part X (Regulations)

This Part sets out the regulation-making powers of the Lieutenant Governor in Council and the Minister.

Part XI (Transition)

This Part sets out transitional rules in respect of the repealed *Ontario Society for the Prevention of Cruelty to Animals Act*.

Part XII (Self-Amendments, Consequential Amendments and Repeal)

This Part repeals the *Ontario Society for the Prevention of Cruelty to Animals Act*.

Consequential amendments are also made to several other Acts.

Part XIII (Commencement and Short Title)

This Part sets out the commencement and short title of the Act. Most of the Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

**An Act to enact the Provincial Animal Welfare Services Act, 2019
and make consequential amendments with respect to animal protection**

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**PART XIII
COMMENCEMENT AND SHORT TITLE**

76. Commencement
77. Short title

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I
INTERPRETATION**

Definitions

1 (1) In this Act,

- “accredited veterinary facility” means a veterinary facility as defined in the *Veterinarians Act* that is accredited under that Act; (“établissement vétérinaire agréé”)
- “administrative requirement” means an administrative requirement prescribed by the Lieutenant Governor in Council; (“exigence administrative”)
- “Board” means the Animal Care Review Board; (“Commission”)
- “business day” means a weekday, excluding a day that is a holiday; (“jour ouvrable”)
- “Chief Animal Welfare Inspector” means the Chief Animal Welfare Inspector appointed under subsection 2 (1); (“inspecteur en chef du bien-être des animaux”)
- “chief of police” has the same meaning as in the *Police Services Act*; (“chef de police”)
- “critical distress” means distress that requires immediate intervention in order to prevent serious injury or to preserve life; (“détresse critique”)
- “distress” means the state of being,
- (a) in need of proper care, water, food or shelter,
 - (b) injured, sick, in pain or suffering, or
 - (c) abused or subject to undue physical or psychological hardship, privation or neglect; (“détresse”)
- “First Nations Constable” means a First Nations Constable appointed under the *Police Services Act*; (“agent des Premières Nations”)
- “justice” has the same meaning as in the *Provincial Offences Act*; (“juge”)
- “Minister” means the Solicitor General or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)
- “motor vehicle” means a motor vehicle as defined in the *Highway Traffic Act*; (“véhicule automobile”)
- “orca” means a member of the species *Orcinus orca*; (“épaulard”)
- “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)
- “place” includes any land, building, vehicle or vessel; (“lieu”)
- “police officer” has the same meaning as in the *Police Services Act*; (“agent de police”)
- “prescribed” means prescribed by the regulations; (“prescrit”)
- “prohibited animal” means an animal that has been prescribed as a prohibited animal; (“animal interdit”)
- “public sector body” means,
- (a) a Ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof,
 - (b) a municipality,
 - (c) a local board as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*,
 - (d) a municipally-controlled corporation as defined in section 223.1 of the *Municipal Act, 2001*, and
 - (e) a city-controlled corporation as defined in section 156 of the *City of Toronto Act, 2006*; (“organisme du secteur public”)

“regulations” means the regulations made under this Act; (“règlements”)

“restricted animal” means an animal that has been prescribed as a restricted animal; (“animal faisant l’objet de restrictions”)

“service animal” means an animal described in subsection (2); (“animal d’assistance”)

“sell” includes offer for sale and expose for sale; (“vente”) “service animal” means an animal described in subsection (2); (“animal d’assistance”)

“standard of care” means a standard of care prescribed by the Lieutenant Governor in Council; (“norme de soins”)

“veterinarian” means a person licensed as a veterinarian by the College of Veterinarians of Ontario. (“vétérinaire”)

Service animal

(2) For the purposes of this Act, an animal is a service animal if,

- (a) the animal is required by a person with a disability for assistance; and
- (b) the person has documentation from one of the following regulated health professionals confirming that the person requires the animal for reasons relating to their disability:
 - (i) A member of the College of Audiologists and Speech-Language Pathologists of Ontario.
 - (ii) A member of the College of Chiropractors of Ontario.
 - (iii) A member of the College of Nurses of Ontario.
 - (iv) A member of the College of Occupational Therapists of Ontario.
 - (v) A member of the College of Optometrists of Ontario.
 - (vi) A member of the College of Physicians and Surgeons of Ontario.
 - (vii) A member of the College of Physiotherapists of Ontario.
 - (viii) A member of the College of Psychologists of Ontario.
 - (ix) A member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario.

Most humane course of action

(3) For the purposes of this Act, euthanasia is the most humane course of action for an animal if,

- (a) immediate veterinary treatment cannot prolong the animal’s life; or
- (b) prolonging the animal’s life would result in undue suffering for the animal.

Minor owner, custodian

(4) Where the owner or custodian of an animal is a minor, the owner or custodian for the purposes of this Act is deemed to be the minor’s parents or guardians.

PART II CHIEF ANIMAL WELFARE INSPECTOR

CHIEF ANIMAL WELFARE INSPECTOR

Chief Animal Welfare Inspector

2 (1) The Minister shall appoint a Chief Animal Welfare Inspector and may appoint one or more deputy Chief Animal Welfare Inspectors.

Duties of the Chief Animal Welfare Inspector

(2) The duties of the Chief Animal Welfare Inspector are as follows:

1. To appoint animal welfare inspectors.
2. To supervise, direct and control animal welfare inspectors in the performance of their duties and in the exercise of their powers.
3. To ensure that animal welfare inspectors receive appropriate training respecting their powers and duties.
4. To handle complaints about animal welfare inspectors other than the Chief Animal Welfare Inspector.
5. To arrange for the provision of necessities to, and otherwise arrange for the care of, any animal in the Chief Animal Welfare Inspector’s care or otherwise in the possession of an animal welfare inspector.
6. To arrange for analyses in relation to the following:

- i. The management or allocation of resources related to this Act.
 - ii. The delivery of programs and services related to this Act.
 - iii. The evaluation of programs and services related to this Act.
7. To perform such other duties as are assigned to him or her by or under this or any other Act, including any duties prescribed by the Lieutenant Governor in Council.

Required training

(3) The Chief Animal Welfare Inspector, and any deputy Chief Animal Welfare Inspector, shall not perform any of their duties or exercise any of their powers under this Act unless they have successfully completed the prescribed training, if any.

Direction

(4) The Chief Animal Welfare Inspector may issue a direction to another animal welfare inspector with regard to the performance of the inspector's duties or the exercise of an inspector's powers under this Act, including a direction to conduct, not conduct or discontinue an inspection or investigation of an offence or of an animal in distress, or to transfer an inspection or investigation to another animal welfare inspector.

Delegation

(5) The Chief Animal Welfare Inspector may delegate any of his or her powers and duties under this Act or the regulations to a deputy Chief Animal Welfare Inspector or another animal welfare inspector, subject to any limitations, conditions or requirements set out in the delegation.

Deputy Chief Animal Welfare Inspector

(6) A deputy Chief Animal Welfare Inspector shall act in the place of the Chief Animal Welfare Inspector if he or she is absent or unable to act and, when so acting, shall perform all the duties and may exercise all the powers of the Chief Animal Welfare Inspector.

Power to disclose personal information

(7) Despite any other Act, the Chief Animal Welfare Inspector, or person designated by the Chief Animal Welfare Inspector for the purpose of this section, may disclose personal information about an individual in accordance with the regulations.

Purpose of disclosure

(8) Any disclosure made under subsection (7) shall be for one or more of the following purposes:

1. Protection of the public or a member of the public.
2. Protection of animals.
3. Keeping the public informed with respect to the activities of animal welfare inspectors under the Act in order to ensure public confidence in the administration of the Act.
4. Law enforcement.
5. Correctional purposes.
6. Administration of justice.
7. Enforcement of and compliance with any municipal by-law, federal or provincial Act or regulation, or any government program.

Purpose of disclosure

(9) Any disclosure made under subsection (7) shall be deemed to be in compliance with clauses 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* and 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*.

Same

(10) If personal information is disclosed under subsection (7) to an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, the institution shall collect such information and subsections 39 (2) of the *Freedom of Information and Protection of Privacy Act* and 29 (2) of the *Municipal Freedom of Information and Protection of Privacy Act* do not apply to that collection of personal information.

MINISTER

Minister's duties

3 (1) The Minister shall,

- (a) monitor the Chief Animal Welfare Inspector's performance of his or her duties and the exercise of his or her powers under this Act;
- (b) handle complaints about the Chief Animal Welfare Inspector;
- (c) monitor the Chief Animal Welfare Inspector's handling of complaints about animal welfare inspectors and deputy Chief Animal Welfare Inspectors; and
- (d) monitor the disclosure by the Chief Animal Welfare Inspector of personal information about individuals.

Policies and directions

(2) The Minister may establish policies regarding the performance of the Chief Animal Welfare Inspector's duties and the exercise of his or her powers and may issue directions to the Chief Animal Welfare Inspector regarding the performance of those duties and the exercise of those powers.

No policies or directions for certain matters

(3) The Minister shall not establish a policy or issue a direction with respect to a specific inspection, the exercise of a power in relation to a specific animal in distress or a specific investigation into an offence.

PROVISION OF INFORMATION

Provision of information

4 (1) A public sector body that employs animal welfare inspectors shall, at the frequency and in the manner set out in the regulations, provide the person or unit specified by the Chief Animal Welfare Inspector with prescribed information that,

- (a) is related to the administration of this Act; or
- (b) is for the purpose of compiling information, including statistical information, to enable analysis in relation to,
 - (i) the management or allocation of resources related to this Act,
 - (ii) the planning for the delivery of programs and services related to this Act, or
 - (iii) the evaluation of those programs and services.

Information to be provided on request

(2) A public sector body shall provide the person or unit specified by the Chief Animal Welfare Inspector with such information as the Chief Animal Welfare Inspector may request from time to time in relation to the administration of this Act or an issue described in subclause (1) (b) (i), (ii) or (iii).

Time to comply

(3) The information requested under subsection (2) shall be provided in the form and manner, and within the time specified, in the Chief Animal Welfare Inspector's request.

Personal information

(4) If personal information is to be provided under this section for the purpose described in clause (1) (a), the Chief Animal Welfare Inspector must specify that it shall be provided to a person or unit that is subject to direction by the Chief Animal Welfare Inspector or that is within the ministry of the Minister.

Same

(5) If personal information is to be provided under this section for the purpose described in clause (1) (b), the Chief Animal Welfare Inspector must specify that it shall be provided to an inter-ministerial data integration unit or a ministry data integration unit within the meaning of subsection 49.1 (1) of the *Freedom of Information and Protection of Privacy Act*.

Same

(6) For greater certainty, Part III.1 of the *Freedom of Information and Protection of Privacy Act* applies to personal information provided to an inter-ministerial data integration unit or a ministry data integration unit under subsection (5).

ANIMAL WELFARE INSPECTORS

Appointment of animal welfare inspectors

5 (1) The Chief Animal Welfare Inspector may, in writing, appoint a person who is employed by a public sector body that is an institution, within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, as an animal welfare inspector if the person satisfies the prescribed requirements.

Chief Animal Welfare Inspector and Deputies are animal welfare inspectors

(2) The Chief Animal Welfare Inspector and any deputy Chief Animal Welfare Inspector are, by virtue of their office, animal welfare inspectors.

Conditions and limitations

(3) In appointing an animal welfare inspector, the Chief Animal Welfare Inspector may, in writing, specify conditions that apply to an appointment, or otherwise limit the authority of the inspector, in such manner as the Chief Animal Welfare Inspector considers necessary or advisable.

Specified employer

(4) The Chief Animal Welfare Inspector shall, in the document appointing an animal welfare inspector, record the name of the public sector body that employs the inspector.

Automatic termination of appointment

(5) An animal welfare inspector's appointment is immediately terminated, without notice and without an opportunity to respond, if he or she ceases to be employed by the public sector body specified in the document appointing the inspector.

Amendment, suspension revocation etc.

(6) The Chief Animal Welfare Inspector may, in writing, from time to time and as the Chief Animal Welfare Inspector considers necessary or advisable,

- (a) amend or specify new conditions that apply to an animal welfare inspector's appointment, or otherwise limit the authority of the inspector;
- (b) suspend an animal welfare inspector's appointment for a specified period or until he or she has complied with specified conditions; or
- (c) subject to subsection (7), revoke an animal welfare inspector's appointment.

Revocation requirements

(7) Before revoking an animal welfare inspector's appointment, the Chief Animal Welfare Inspector shall give the animal welfare inspector written notice with respect to the reasons for the revocation and an opportunity to respond orally or in writing, as the Chief Animal Welfare Inspector may determine.

Required training

6 An animal welfare inspector appointed by the Chief Animal Welfare Inspector shall not exercise any of his or her powers or perform any of his or her duties under this Act unless they have successfully completed the prescribed training, if any.

Conduct of animal welfare inspectors

Code of conduct

7 (1) Every animal welfare inspector, including, for greater certainty, the Chief Animal Welfare Inspector and every deputy Chief Animal Welfare Inspector, shall comply with the prescribed code of conduct.

Peace officer

(2) Every animal welfare inspector is a peace officer for the purposes of enforcing this Act.

Identification

(3) Every animal welfare inspector who exercises a power under this Act shall, on request, identify himself or herself as an inspector, produce identification and explain the purpose of the exercise of the power.

Compliance with direction

(4) An animal welfare inspector shall comply with any direction from the Chief Animal Welfare Inspector.

PART III COMPLAINTS

Interpretation, portion of a complaint

8 This Part applies to a portion of a complaint as if it were a complaint, unless the context indicates otherwise.

Public complaints

Complaint re animal welfare inspector

9 (1) Any person, other than an animal welfare inspector, may make a complaint in writing to the Chief Animal Welfare Inspector about the conduct of an animal welfare inspector, other than the Chief Animal Welfare Inspector.

Complaint re Chief Animal Welfare Inspector

(2) Any person, other than an animal welfare inspector, may make a complaint in writing to the Minister about the conduct of the Chief Animal Welfare Inspector.

Forwarding of complaints

(3) If the Minister receives a complaint that should have been made to the Chief Animal Welfare Inspector under subsection (1), he or she shall forward it to the Chief Animal Welfare Inspector.

Same

(4) If the Chief Animal Welfare Inspector receives a complaint that should have been made to the Minister under subsection (2), he or she shall forward it to the Minister.

Review of complaints**Review by Chief Animal Welfare Inspector**

10 (1) The Chief Animal Welfare Inspector shall review every complaint made to the Chief Animal Welfare Inspector under subsection 9 (1) and determine whether there is cause for it to be investigated.

Review by Minister

(2) The Minister shall review every complaint made to the Minister under subsection 9 (2) and determine whether there is cause for it to be investigated.

Refusal to investigate

11 (1) The Chief Animal Welfare Inspector or the Minister may refuse to cause a complaint to be investigated if,

- (a) the facts on which the complaint is based occurred more than six months before the complaint is made;
- (b) the complainant was not affected by the conduct of the person who is the subject of the complaint, as determined under subsection (3);
- (c) the complaint alleges conduct that does not, on its face, constitute a failure to comply with the code of conduct referred to in subsection 7 (1); or
- (d) in the opinion of the Chief Animal Welfare Inspector or the Minister,
 - (i) the complaint is frivolous, vexatious or made in bad faith, or
 - (ii) having regard to all the circumstances, dealing with the complaint is not in the public interest.

Six-month period

(2) In determining whether to refuse to cause a complaint to be investigated because the facts on which the complaint is based occurred more than six months before the complaint is made, the Chief Animal Welfare Inspector or the Minister shall consider,

- (a) whether the complainant is a minor or under a disability within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*;
- (b) whether the complainant is or was subject to an inspection, investigation or order under this Act in respect of the events underlying the complaint; and
- (c) whether, having regard to all the circumstances, it is in the public interest for the complaint to be investigated.

Persons affected by conduct

(3) For the purposes of clause (1) (b), only the following persons shall be considered to have been affected by the conduct:

- 1. A person at whom the conduct was directed.
- 2. A person who saw or heard the conduct or its effects as a result of being physically present at the time and place where the conduct or its effects occurred.
- 3. A person who,
 - i. was in a personal relationship with a person described in paragraph 1 at the time that the conduct occurred, and
 - ii. suffered loss, damage, distress, danger or inconvenience as a result of the conduct.

Public interest

(4) In assessing the public interest for the purposes of subclause (1) (d) (ii) or clause (2) (c), the Chief Animal Welfare Inspector or the Minister shall consider,

- (a) whether the conduct has been or is currently the subject of an investigation under this Act;
- (b) whether the conduct could be more appropriately dealt with, in whole or in part, under another Act or law or in another adequate forum;
- (c) whether a decision to not conduct an investigation would negatively impact public confidence in the administration of this Act; and

(d) whether an investigation is reasonably practicable, having regard to the information or evidence available.

Notice

(5) If the Chief Animal Welfare Inspector or the Minister refuses to investigate a complaint in accordance with this section, he or she shall give notice of the refusal, with reasons, and of the substance of the complaint to,

- (a) the complainant;
- (b) the person who is the subject of the complaint; and
- (c) any other prescribed person.

Investigation of complaints

12 (1) If there appear to be grounds to believe that the matter complained of warrants investigation, the Chief Animal Welfare Inspector or the Minister shall,

- (a) cause the complaint to be investigated;
- (b) inform the complainant about the investigation and keep him or her apprised of the steps taken to resolve the complaint; and
- (c) notify the person who is the subject of the complaint, and any other prescribed person, about the investigation and the substance of the complaint.

Notice, exception

(2) The Chief Animal Welfare Inspector or the Minister is not required to provide notice under clause (1) (c) to the person who is the subject of the complaint if, in the opinion of the Chief Animal Welfare Inspector or the Minister, as applicable, doing so may prejudice the investigation.

Delay

(3) The Chief Animal Welfare Inspector or the Minister may delay taking one of the actions set out in subsection (1) if the subject matter of the complaint is the subject of an investigation or proceeding under another Act or law, and the delay may last until the conclusion of the investigation or proceeding.

Results of investigation

(4) A person who conducts an investigation of a complaint under subsection (1) shall report their results in writing to the Chief Animal Welfare Inspector or the Minister, as applicable.

Notification

(5) Unless the regulations provide otherwise, the Chief Animal Welfare Inspector or the Minister shall notify the complainant, the person who was the subject of the investigation and any other prescribed person of the findings in the report.

Chief Animal Welfare Inspector and Minister's powers

(6) If, in the opinion of the Chief Animal Welfare Inspector or the Minister, the report discloses evidence that the person who is the subject of the investigation has not complied with the code of conduct referred to in subsection 7 (1), the Chief Animal Welfare Inspector or the Minister may do one or more of the following:

1. Reprimand the person who is the subject of the complaint.
2. Suspend the subject of the complaint's appointment for a specified period or until he or she has complied with specified conditions.
3. Impose conditions on the person who is the subject of the complaint.
4. Revoke the appointment of the person who is the subject of the complaint.

Before imposing measures

(7) Before exercising a power under subsection (6), the Chief Animal Welfare Inspector or the Minister shall provide written notice of the proposed measures to the person who is the subject of the complaint and provide him or her an opportunity to respond orally or in writing, as the Chief Animal Welfare Inspector or the Minister may determine.

Exercise of powers

(8) After considering the response under subsection (7), if any, the Chief Animal Welfare Inspector or the Minister may implement the proposed measures, impose a lesser measure or rescind his or her intention to implement them.

Notice

(9) The Chief Animal Welfare Inspector or the Minister shall notify the complainant and any other prescribed person of any action taken under subsection (6).

**PART IV
DUTIES AND PROHIBITIONS**

DUTIES

Standards of care and administrative requirements for animals

13 (1) Every person who owns or has custody or care of an animal shall comply with the standards of care and the administrative requirements with respect to every animal that the person owns or has custody or care of.

Exception, agricultural activities

(2) Subsection (1) does not apply in respect of an activity regarding agricultural animal care, management or husbandry carried on in accordance with the reasonable and generally accepted practices of agricultural animal care, management or husbandry, unless the standards of care or administrative requirements expressly provide that they apply to that activity.

Exception, veterinarians

(3) Subsection (1) does not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the *Veterinarians Act*;
- (b) a person acting under the supervision of a veterinarian described in clause (a); and
- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Obligation to report

14 Every veterinarian or other person prescribed by the Lieutenant Governor in Council who has reasonable grounds to believe that an animal is being abused, being subject to undue physical or psychological hardship, privation or neglect, including by participating in fights with other animals, or is being trained to fight another animal shall report his or her belief in accordance with the regulations, if any, to an animal welfare inspector.

DISTRESS, ANIMAL FIGHTS AND HARM

Distress

Causing distress

15 (1) No person shall cause an animal to be in distress.

Permitting distress

(2) No owner or custodian of an animal shall permit the animal to be in distress.

Exposure to undue risk of distress

(3) No person shall knowingly or recklessly cause an animal to be exposed to an undue risk of distress.

Exception

(4) Subsections (1), (2) and (3) do not apply in respect of,

- (a) an activity permitted under the *Fish and Wildlife Conservation Act, 1997* in relation to wildlife in the wild;
- (b) an activity permitted under the *Fish and Wildlife Conservation Act, 1997* or the *Fisheries Act (Canada)* in relation to fish;
- (c) an activity regarding agricultural animal care, management or husbandry carried on in accordance with,
 - (i) any standards of care or administrative requirements that expressly provide that they apply to that activity, or
 - (ii) if no standards of care or administrative requirements expressly provide that they apply to that activity, the reasonable and generally accepted practices of agricultural animal care, management or husbandry;
- (d) a prescribed class of animals or animals living in prescribed circumstances or conditions; and
- (e) prescribed activities.

Exception, veterinarians

(5) Subsections (1), (2) and (3) do not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the *Veterinarians Act*;
- (b) a person acting under the supervision of a veterinarian described in clause (a); and

- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Animal fighting prohibitions

16 (1) No person shall encourage, promote, arrange, conduct, assist in, receive a financial or material benefit for or take part in,

- (a) the training of an animal to fight with another animal; or
- (b) any meeting, competition, exhibition, pastime, display or event at or in the course of which an animal fights another animal.

Same, permitting fights, etc.

(2) No person shall,

- (a) permit an animal to be trained to fight with another animal; or
- (b) permit any meeting, competition, exhibition, pastime, display or event at or in the course of which an animal fights another animal to take place.

Animal fighting equipment

(3) No person shall own or possess equipment that is used in animal fights or in training animals to fight.

Animal fighting structure

(4) No person shall own or possess a structure that is used in animal fights or in training animals to fight.

Harming law enforcement or service animal

17 No person shall cause harm, or attempt to cause harm, to an animal that works with peace officers in the execution of their duties, or to a service animal, whether or not the animal is working at the time of the harm.

PROHIBITED AND RESTRICTED ANIMALS

Prohibited animal possession or breeding

18 (1) No person shall possess or breed a prohibited animal in Ontario.

Exception

(2) Despite subsection (1), a person may, if the regulations made by the Lieutenant Governor in Council so provide, continue to possess a prohibited animal in Ontario if the person possessed the prohibited animal in Ontario before the day the regulation prescribing the animal as a prohibited animal came into force.

Regulation

(3) The Lieutenant Governor in Council may, by regulation, prescribe animals as prohibited animals if the Lieutenant Governor in Council determines that the animal, poses an undue risk to human safety or cannot be humanely kept in captivity in Ontario.

Prohibition on orca possession and breeding

19 (1) No person shall possess or breed an orca in Ontario.

Transition

(2) Despite subsection (1), a person may continue to possess an orca in Ontario if the person possessed the orca in Ontario on March 22, 2015.

Restricted animal possession or breeding

20 (1) No person shall possess or breed a restricted animal in Ontario unless the person is authorized to do so in accordance with the regulations made by the Lieutenant Governor in Council and complies with any conditions of the authorization.

Regulations

(2) The Lieutenant Governor in Council may, by regulation, prescribe animals as restricted animals if the Lieutenant Governor in Council determines that such a regulation is advisable,

- (a) to avoid undue risk to human safety; or
- (b) to ensure that an animal is humanely kept in captivity.

PRESCRIBED ACTIVITIES AND PROCEDURES

Prescribed activities

21 (1) No person shall engage in an activity prescribed by the Lieutenant Governor in Council with respect to animals unless the person is authorized to do so in accordance with the regulations made by the Lieutenant Governor in Council and complies with any conditions of the authorization.

Required information

(2) A person who engages in an activity prescribed by the Lieutenant Governor in Council with respect to animals shall provide the Minister with prescribed information in accordance with the regulations made by the Lieutenant Governor in Council.

Prescribed procedures

22 No person shall cause an animal to undergo a procedure prescribed by the Lieutenant Governor in Council.

Prescribed items

23 No person shall possess, purchase or sell an item prescribed by the Lieutenant Governor in Council which may cause an animal distress.

PART V PROTECTION OF ANIMALS

GENERAL INSPECTION POWERS

Inspection to determine compliance

24 (1) An animal welfare inspector may enter and inspect any place for the purpose of determining compliance with,

- (a) a condition in an authorization that is issued under section 20 or 21;
- (b) an order to relieve an animal's distress under section 30; or
- (c) the standards of care or administrative requirements or the reasonable and generally accepted practices of agricultural animal care, management or husbandry, if the animals are kept for,
 - (i) an entertainment, commercial, educational or charitable purpose, or
 - (ii) a purpose prescribed by the Lieutenant Governor in Council related to sport.

Dwellings

(2) Subsection (1) does not authorize an animal welfare inspector to enter a place, or part of a place, that is being used as a dwelling without a warrant unless the occupier of the dwelling consents to the entry.

Accredited veterinary facilities

(3) Subsection (1) does not authorize an animal welfare inspector to enter and inspect an accredited veterinary facility, or part of such a facility, for the reason described in clause (1) (c), unless the inspector has reasonable grounds to believe that an animal to be found there is not being treated in accordance with the standards of practice under the *Veterinarians Act*.

Warrant

(4) On application without notice, a justice may issue a warrant authorizing an animal welfare inspector to enter and inspect a place if the justice is satisfied by information under oath or affirmation that there are reasonable grounds to believe that an inspection under this section is required for any of the reasons described in subsection (1).

Warrant for dwelling

(5) An application under subsection (4) that is made for the purposes of entering and inspecting a place, or part of a place, that is used as a dwelling must specify that the warrant is to enter and inspect a dwelling.

Accredited veterinary facilities

(6) In the case of an application under subsection (4) that is made for the purpose of entering and inspecting an accredited veterinary facility, or part of such a facility, for the reason described in clause (1) (c), the justice shall not issue the warrant unless the animal welfare inspector also satisfies the justice that there are reasonable grounds to believe an animal in the facility is not being treated in accordance with the standards of practice established under the *Veterinarians Act*.

Telewarrant

(7) If an animal welfare inspector believes that it would be impracticable to appear personally before a justice to apply for a warrant under subsection (4), he or she may, in accordance with the regulations, seek the warrant by telephone or other means of telecommunication, and the justice may, in accordance with the regulations, issue the warrant by the same means.

Warrant timing and expiry

(8) A warrant issued under this section shall specify the times during which the warrant may be executed and specify a date the warrant expires, which shall be no more than 30 days after the warrant is issued.

Extension

(9) A justice may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days upon application without notice by an animal welfare inspector.

Other conditions

(10) A warrant issued under this section is subject to any other conditions that may be specified in the warrant.

Police assistance

(11) An animal welfare inspector may call upon police officers for assistance in executing the warrant.

Use of force

(12) An animal welfare inspector, and any police officers called to assist the inspector, may use whatever force is reasonably necessary to execute the warrant.

Powers during inspection

25 (1) During an inspection under section 24, an animal welfare inspector may,

- (a) inspect any animal or thing that the inspector believes on reasonable grounds to be relevant to the inspection;
- (b) open any receptacle, baggage, package, container, cage or other thing where the inspector believes on reasonable grounds that it may contain something relevant to the inspection;
- (c) conduct any test, take any measurement, specimen or sample, set up any equipment and make any photographic or other record that may assist in the inspection;
- (d) require the production of any animal or thing, including any document or data that is relevant to the inspection;
- (e) use or cause to be used any computer or other device that contains or is able to retrieve information, for the purpose of examining information relevant to the inspection that is contained in or available to the computer or other device, and produce or cause to be produced a printout or other output from the computer or other device of information that is relevant to the inspection;
- (f) remove any documents or other things that are relevant to the inspection for the purpose of making copies or of further inspection; and
- (g) ask questions that are relevant to the inspection.

Assistance

(2) An animal welfare inspector may be accompanied or assisted by any person during an inspection under section 24 regardless of whether the entry is made with or without a warrant.

Time of entry

(3) A warrantless entry under section 24 shall be made only between the hours of 9 a.m. and 5 p.m. during a business day, or at any other time when the place is open to the public.

Copies

(4) An animal welfare inspector may make copies of any documents produced or removed during the inspection.

Return of things

(5) If an animal welfare inspector removes any document or thing under clause (1) (f), the inspector shall copy the document or thing or further inspect it and return it promptly to the person from whom it was taken, unless it is not reasonable for the person to expect the thing to be returned.

Assisting inspector during inspection

26 A person shall give all reasonable assistance to an animal welfare inspector conducting an inspection under section 24, including by,

- (a) producing any animal or thing required by the inspector in the course of the inspection; and
- (b) providing any information relevant to the inspection in response to the inspector's questions.

Power to make reasonable inquiries

27 (1) An animal welfare inspector may, for any of the purposes described in clauses 24 (1) (a), (b) and (c), demand that the owner or custodian of the animal respond to reasonable inquiries.

Same

(2) For the purposes of subsection (1), an animal welfare inspector may make inquiries by any means of communication.

Orally or in writing

(3) The animal welfare inspector may require the owner or custodian to respond orally or in writing, as the inspector may determine.

Production

(4) In requiring an owner or custodian to respond to an inquiry under subsection (1), an animal welfare inspector may require the production of any thing, including a document, or data related to the inquiry.

Document or data in electronic form

(5) If a document or data is retained in electronic form, an animal welfare inspector may require that a copy of it be provided to him or her on paper or electronically, or both.

Subject of demand

(6) If an animal welfare inspector makes a demand under subsection (1), the owner or custodian who is subject to the demand shall respond to the inspector within the time provided for in the demand.

ENTRY WHERE ANIMAL IS IN DISTRESS

Entry where animal is in distress

28 (1) An animal welfare inspector may enter and search a place with the consent of the occupier if the inspector believes on reasonable grounds that an animal in distress is to be found there.

Warrant

(2) On application without notice, a justice may issue a warrant authorizing an animal welfare inspector to enter and search a place if the justice is satisfied by information under oath or affirmation that there are reasonable grounds to believe that an animal in distress is to be found there.

Warrant for dwelling

(3) An application under subsection (2) that is made for the purposes of entering and searching a place, or part of a place, that is used as a dwelling must specify that the warrant is to enter and search a dwelling.

Accredited veterinary facilities

(4) In the case of an application under subsection (2) that is made for the purpose of entering and inspecting an accredited veterinary facility, or part of such a facility, the justice shall not issue the warrant unless the animal welfare inspector satisfies the justice that there are reasonable grounds to believe that an animal to be found there is being abused or subjected to undue physical or psychological hardship, privation or neglect.

Telewarrant

(5) If an animal welfare inspector believes that it would be impracticable to appear personally before a justice to apply for a warrant under subsection (2), he or she may, in accordance with the regulations, seek the warrant by telephone or other means of telecommunication, and the justice may, in accordance with the regulations, issue the warrant by the same means.

Warrant timing and expiry

(6) A warrant issued under this section shall specify the times during which the warrant may be executed and specify a date the warrant expires, which shall be no more than 30 days after the warrant is issued.

Extension

(7) A justice may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days upon application without notice by an animal welfare inspector.

Other conditions

(8) A warrant issued under this section is subject to any other conditions that may be specified in the warrant.

Police assistance

(9) An animal welfare inspector may call upon police officers for assistance in executing the warrant.

Use of force

(10) An animal welfare inspector, and any police officers called to assist the inspector, may use whatever force is reasonably necessary to execute the warrant.

Assistance

(11) An animal welfare inspector may be accompanied or assisted by any person during a search under this section regardless of whether the search is made with or without a warrant.

Critical distress

29 (1) An animal welfare inspector may enter a place, other than a place, or part of a place, that is being used as a dwelling, without a warrant and search for an animal if the inspector has reasonable grounds to believe that an animal in the place is in critical distress.

Same, dwelling

(2) An animal welfare inspector may enter a place, or a part of a place, that is being used as a dwelling without a warrant and search for an animal if the inspector has reasonable grounds to believe that,

- (a) an animal in the place is in critical distress; and
- (b) the time required to obtain a warrant under section 28 may result in serious injury or death to the animal.

Police assistance

(3) An animal welfare inspector may call upon police officers for assistance in effecting the entry and search.

Use of force

(4) An animal welfare inspector, and any police officers called to assist the inspector, may use whatever force is reasonably necessary to effect the entry and search.

Assistance

(5) An animal welfare inspector may be accompanied or assisted by any person during a search under this section.

Accredited veterinary facilities

(6) An animal welfare inspector shall not enter or search an accredited veterinary facility, or part of such a facility, under this section unless the inspector has reasonable grounds to believe that an animal in critical distress to be found there is being abused or subjected to undue physical or psychological hardship, privation or neglect.

POWERS IN RELATION TO ANIMALS IN DISTRESS

Order to owner of animals, etc.

30 (1) An animal welfare inspector who has reasonable grounds to believe that an animal is in distress and who is able to promptly find the owner or custodian of the animal may order the owner or custodian to take such action as may, in the opinion of the inspector, be necessary to relieve the animal of its distress, which may include, without limiting the generality of the foregoing, having the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to be in writing

(2) The order shall be in writing and shall have printed or written thereon the content of subsections 38 (1), (3) and (5).

Time for compliance with order

(3) The order shall specify the time within which any action required by the order shall be performed.

Required compliance with order

(4) Every person who is served with an order under this section shall comply with it in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed.

Revocation of order

(5) If, in the opinion of an animal welfare inspector, an order made under subsection (1) has been complied with, the inspector shall revoke the order and serve notice of the revocation in writing on the owner or custodian of the animal that is the subject of the order.

Taking possession of animal in distress

31 (1) An animal welfare inspector may remove an animal from the place where it is and take possession of the animal for the purpose of providing it with necessaries to relieve its distress if,

- (a) a veterinarian has advised the inspector in writing that alleviating the animal's distress 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 or custodian of the animal is not present and cannot be found promptly; or
- (c) an order respecting the animal has been made under section 30 and the order has not been complied with.

Taking possession, animal trained to or participating in fight

(2) An animal welfare inspector may remove an animal from the place where it is and take possession of the animal if the inspector has reasonable grounds for believing that,

- (a) the animal is being trained to fight another animal; or
- (b) the animal is participating or soon will participate in a meeting, competition, exhibition, pastime, display or event at or in the course of which an animal fights another animal.

Police assistance

(3) An animal welfare inspector may call upon police officers for assistance in removing the animal.

Use of force

(4) An animal welfare inspector, and any police officers called to assist the inspector, may use whatever force is reasonably necessary to remove the animal.

Notice

(5) An animal welfare inspector who has removed an animal under subsection (1) or (2) shall immediately serve written notice of his or her action on the owner or custodian of the animal, if known, and on the Chief Animal Welfare Inspector.

Decision to keep in care

(6) The Chief Animal Welfare Inspector may decide to keep an animal that was removed under subsection (1) or (2) in the Chief Animal Welfare Inspector's care if,

- (a) the Chief Animal Welfare Inspector determines it is necessary to relieve the animal's distress; or
- (b) the Chief Animal Welfare Inspector has reasonable grounds to believe that,
 - (i) the animal may be placed in distress if returned to its owner or custodian, or
 - (ii) the animal may be trained to fight another animal if returned to its owner or custodian.

Notice

(7) The Chief Animal Welfare Inspector shall immediately serve written notice of his or her decision to keep an animal in the Chief Animal Welfare Inspector's care in accordance with subsection (6) on the owner or custodian of the animal, if known.

Provisions to be printed on notice

(8) A notice to an owner or custodian of an animal required by this section shall have printed or written on it the content of subsections 38 (1), (4) and (5).

Euthanization of animal

32 (1) An animal welfare inspector may cause an animal to be euthanized,

- (a) with the consent of the owner; or
- (b) if a veterinarian has advised the inspector in writing that, in his or her opinion, it is the most humane course of action.

Notice

(2) An animal welfare inspector who has caused an animal to be euthanized under subsection (1) shall immediately serve written notice of his or her action on the owner or custodian of the animal, if known.

Supply necessities to animals

33 An animal welfare inspector who is lawfully in any place and who finds an animal in distress may, in addition to any other action he or she is authorized to take under this Act, supply the animal with necessities to relieve its distress.

CRITICAL DISTRESS IN MOTOR VEHICLE**Critical distress in motor vehicle**

34 (1) A prescribed person who has reasonable grounds to believe that there is an animal in critical distress in a motor vehicle may enter the motor vehicle for the purpose of relieving the animal from distress.

Dwelling

(2) Subsection (1) does not authorize a prescribed person to enter a motor vehicle that is being used as a dwelling unless the occupier of the dwelling consents to the entry.

May cause damage

(3) The prescribed person may cause damage to the motor vehicle that is reasonably necessary in order to enter it and relieve the animal from distress.

Power to take possession, relieve distress

(4) The prescribed person may take possession of the animal and take reasonable steps to relieve its distress.

Notification to animal welfare inspector

(5) A prescribed person who takes possession of an animal under subsection (4) shall promptly notify an animal welfare inspector if the owner or custodian of the animal is not present and cannot be found promptly.

Inspector to take possession

(6) The animal welfare inspector who is notified under subsection (5) shall inspect the animal and determine whether to take possession of it pursuant to section 31.

No obstruction

(7) No person shall obstruct a prescribed person exercising a power under this section to enter a motor vehicle for the purpose of taking an animal into his or her possession and relieving its distress.

Costs

(8) The owner or custodian of the animal is responsible for any costs incurred by the prescribed person in taking steps to relieve the animal's distress, and the amount may be recovered as a debt due and owing to the prescribed person.

MISCELLANEOUS**Liability of owner or custodian for expenses**

35 (1) If an animal welfare inspector has provided an animal with necessaries to relieve its distress or the Chief Animal Welfare Inspector has taken an animal into the Chief Animal Welfare Inspector's care, the Chief Animal Welfare Inspector may, from time to time, serve on the owner or custodian of the animal a statement of account respecting the cost of the necessaries.

Statement of account

(2) The statement of account must have printed or written on it the content of subsections 38 (2) and (5).

Obligation to pay

(3) An owner or custodian who receives a statement of account under subsection (1) is, subject to an order made under subsection 38 (9), liable for the amount specified in the statement.

Forfeiture on failure to pay account

(4) Subject to any agreement made under subsection (5), the animal is forfeited to the Crown if,

- (a) the owner or custodian does not appeal the statement of account in accordance with subsection 38 (2) and fails to pay the stated amount within a prescribed period of time after receiving the statement of account; or
- (b) the owner or custodian appealed the statement of account in accordance with subsection 38 (2) but failed to pay the confirmed or varied amount within a prescribed period of time after the Board provided notice of its decision.

Agreements

(5) Before the expiry of the relevant time period set out in clause (4) (a) or (b), the Chief Animal Welfare Inspector may enter into a written agreement with the owner or custodian to extend the time for payment or reduce the amount that is to be paid, or both.

Abandoned animal

36 If the Chief Animal Welfare Inspector takes an animal into the Chief Animal Welfare Inspector's care under this Act and no person is identified as the animal's owner or custodian within a prescribed period of time, the animal is forfeited to the Crown.

**PART VI
ANIMAL CARE REVIEW BOARD**

Animal Care Review Board**Board continued**

37 (1) The Animal Care Review Board is continued under the name Animal Care Review Board in English and Commission d'étude des soins aux animaux in French.

Same

(2) The Board shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council.

Chair, vice-chair

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chair and another of the members as vice-chair.

Composition of Board for hearings

(4) A proceeding before the Board shall be heard and determined by a panel consisting of one or more members of the Board, as assigned by the chair or vice-chair of the Board.

Remuneration of members

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Employees

(6) Such employees as are considered necessary for the proper conduct of the Board may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Appeal to Board

38 (1) An owner or custodian of an animal may appeal the following to the Board within five business days after receiving notice of them:

1. An order from an animal welfare inspector.
2. A decision by an animal welfare inspector to remove an animal from a place.
3. A decision to take an animal into the Chief Animal Welfare Inspector's care.

Appeal re statement of account

(2) An owner or custodian of an animal who is served with a statement of account may apply to the Board by notice in writing to appeal the statement of account within the prescribed period after being served the statement.

Application for revocation of order

(3) An owner or custodian of an animal who receives an order from an animal welfare inspector may apply to the Board by notice in writing to have the order revoked if the animal has ceased to be in distress.

Application for revocation of determination

(4) An owner or custodian of an animal that has been taken into the Chief Animal Welfare Inspector's care may apply to the Board by notice in writing to have the animal returned if the conditions that caused the animal to be kept in the Chief Animal Welfare Inspector's care have ceased to exist.

Notice requirements

(5) A notice to the Board must set out the remedy or action sought and the reasons for the appeal or application.

Notice of hearing

(6) Within five business days after receiving a notice under subsection (1), (2), (3) or (4), the Board shall,

- (a) fix a time, date and place at which the Board will hear the matter; and
- (b) notify the Chief Animal Welfare Inspector and the owner or custodian who issued the notice of the time, date and place fixed under clause (a).

Date of hearing

(7) The hearing shall be dealt with on an expedited basis and the date fixed for a hearing shall be not more than ten business days after the receipt of a notice under subsection (1), (2), (3) or (4).

Procedure at hearing

(8) Subject to the rules of the Board, at a hearing, the Chief Animal Welfare Inspector and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present arguments and be represented by persons authorized under the *Law Society Act* to represent them.

Powers of Board

(9) After a hearing, the Board may do one or more of the following:

1. Confirm, revoke or modify an order made under section 30.
2. Order that an animal removed under subsection 31 (1) or (2), or that was taken into the Chief Animal Welfare Inspector's care under subsection 31 (6) or 44 (8), be returned to the owner or custodian.
3. Confirm, revoke or vary a statement of account served under subsection 35 (1).

4. Order that the whole or any part of the cost to the owner or custodian of an animal of complying with an order made under section 30 be paid by the Minister to the owner or custodian.
5. Order that the whole or any part of the cost to the Chief Animal Welfare Inspector of providing necessities to an animal pursuant to its removal under subsection 31 (1) or (2) or the determination to keep an animal in the Chief Animal Welfare Inspector's care under subsection 31 (6) or 44 (8) be paid by the owner or custodian of the animal to the Minister of Finance.

Same

(10) The Board may make an order under paragraph 2 of subsection (9) subject to compliance with a further order issued by the Board in the same terms as an order under section 30, which shall be deemed to have been made under section 30 for the purposes of this Act.

Consent to use powers without hearing

(11) The Board may use a power listed in subsection (9) and, if applicable, subsection (10) without a hearing if the Chief Animal Welfare Inspector and the person who issued the notice under subsection (1), (2), (3) or (4) consent to it.

Notice of decision

(12) The Board shall promptly serve notice of its decision together with written reasons on the Chief Animal Welfare Inspector and the owner or custodian of the animal.

Order not stayed

(13) An appeal to the Board in respect of an order made under section 30 does not stay the operation of the order.

Board rules

39 (1) The Board may make rules governing the practice and procedure before it.

Same

- (2) Without limiting the generality of subsection (1), the Board rules may,
 - (a) provide for and require the use of hearings or of practices and procedures that are provided for under the *Statutory Powers Procedure Act* or that are alternatives to traditional adjudicative or adversarial procedures;
 - (b) authorize the Board to,
 - (i) define or narrow the issues required to dispose of an application and limit the evidence and submissions of the parties on such issues, and
 - (ii) determine the order in which the issues and evidence in a proceeding will be presented;
 - (c) authorize the Board to conduct examinations in chief or cross-examinations of a witness;
 - (d) prescribe the stages of its processes at which preliminary, procedural or interlocutory matters will be determined;
 - (e) authorize the Board to make or cause to be made such examinations of records and such other inquiries as it considers necessary in the circumstances;
 - (f) authorize the Board to require a party to a proceeding or another person to,
 - (i) produce any document, information or thing and provide such assistance as is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce the information in any form,
 - (ii) provide a statement or oral or affidavit evidence, or
 - (iii) in the case of a party to the proceeding, adduce evidence or produce witnesses who are reasonably within the party's control; and
 - (g) govern any other prescribed matter.

General or particular

(3) The rules may be of general or particular application.

Consistency

(4) The rules shall be consistent with this Part.

Not a regulation

(5) The rules made under this section are not regulations for the purposes of Part III of the *Legislation Act, 2006*.

Failure to comply with rules

(6) Failure on the part of the Board to comply with the practices and procedures required by the rules or the exercise of a discretion under the rules by the Board in a particular manner is not a ground for setting aside a decision of the Board on an application for judicial review or any other form of relief, unless the failure or the exercise of a discretion caused a substantial wrong which affected the final disposition of the matter.

Statutory Powers Procedure Act

40 (1) The provisions of the *Statutory Powers Procedure Act* apply to a proceeding before the Board unless they conflict with a provision of this Act, the regulations or the Board rules.

Conflict

(2) Despite section 32 of the *Statutory Powers Procedure Act*, the Board rules prevail over the content of that Act with which they conflict.

**PART VII
ENFORCEMENT**

Search warrants re offences

41 (1) An animal welfare inspector may obtain a search warrant under Part VIII of the *Provincial Offences Act*.

Warrantless searches re offences

(2) If an animal welfare inspector has reasonable grounds to believe that there is in any place any thing that will afford evidence of an offence under this Act but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the animal welfare inspector may, without a warrant, enter and search the place.

Dwellings

(3) Subsection (2) does not apply to a place, or a part of a place, that is being used as a dwelling.

Computers, etc.

(4) An animal welfare inspector who is conducting a search that is authorized by a warrant or by subsection (2) may,

- (a) use or cause to be used any computer system or other device that contains or is able to retrieve information for the purpose of examining information contained in or available to the computer system or other device; and
- (b) produce or cause to be produced a printout or other output from the computer system or other device.

Warrant to conduct tests

42 (1) On application without notice, a justice may issue a warrant authorizing an animal welfare inspector to use any investigative technique or procedure or to do any thing described in the warrant if the justice is satisfied by information under oath or affirmation that there are reasonable grounds to believe that an offence under this Act has been or is being committed and that evidence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing.

Assistance

(2) The warrant may authorize any person specified in the warrant to accompany and assist the animal welfare inspector in the execution of the warrant.

Terms and conditions of warrant

(3) The warrant shall authorize the animal welfare inspector to enter and search the place for which the warrant was issued and, without limiting the powers of the justice under subsection (1), the warrant may, in respect of the alleged offence, authorize the inspector to conduct any tests, take any measurements, take any specimens or samples, set up any equipment, make any excavations and make any photographic or other records that may be relevant to the search.

Duration

(4) The warrant is valid for 30 days or for such shorter period as may be specified in it.

Further warrants

(5) A justice may issue further warrants under subsection (1).

Production orders

43 (1) On application without notice and subject to subsection (3), a justice may issue an order to a person, other than a person under investigation for an offence, requiring the person to,

- (a) produce documents or copies of documents, certified to be true copies, or produce data; or
- (b) prepare a document based on documents or data already in existence and produce it.

Content of order

(2) An order under subsection (1) shall require the document or data to be produced within the time, at the place and in the form specified in the order and require that it be given to an animal welfare inspector named in the order.

Grounds for order

(3) A justice may make an order under subsection (1) if he or she is satisfied by information given under oath or affirmation that there are reasonable grounds to believe that,

- (a) an offence under this Act has been or is being committed;
- (b) the document or data will provide evidence respecting the offence or suspected offence; and
- (c) the person who is subject to the order has possession or control of the document or data.

Conditions

(4) An order under subsection (1) may contain such conditions as the justice considers advisable.

Evidence

(5) A copy of a document produced under this section, that is certified to be a true copy, is admissible in evidence in proceedings under this Act and has the same probative force as the original document would have if it had been proved in the ordinary way.

No return of copies

(6) Copies of documents produced under this section are not required to be returned to the person who provided them.

Seizure

44 (1) An animal welfare inspector who is lawfully in any place may, without a warrant, seize any animal or thing that he or she has reasonable grounds to believe,

- (a) has been obtained by the commission of an offence under this Act;
- (b) has been used in the commission of an offence under this Act;
- (c) will afford evidence of the commission of an offence under this Act; or
- (d) is intermixed with a thing referred to in clause (a), (b) or (c).

Presence pursuant to warrant

(2) If the animal welfare inspector is in the place pursuant to a warrant, subsection (1) applies to any animal or thing, whether or not it is specified in the warrant.

Safekeeping

(3) An animal welfare inspector shall deliver any animal or thing that he or she seizes to a person authorized by the Chief Animal Welfare Inspector for safekeeping.

Leaving with occupant

(4) Despite subsection (3), an animal welfare inspector may leave an animal or thing that he or she seizes in the custody of the occupant of the place in which it was seized.

Occupant to safeguard

(5) If any animal or thing is left in the custody of an occupant under subsection (4), the occupant shall safeguard the animal or thing until,

- (a) an animal welfare inspector removes it;
- (b) the occupant is notified by an animal welfare inspector that the investigation has concluded and that a charge will not be laid; or
- (c) if a charge is laid, the defendant is acquitted or the charge is dismissed, withdrawn or is finally disposed of.

Procedure if animal or thing seized

(6) An animal welfare inspector who has seized an animal or thing under this section shall comply with the requirements of section 158.2 of the *Provincial Offences Act*.

Return of seized animal or thing

(7) Any animal or thing seized and not forfeited under this section shall be returned to the person from whom it was seized if,

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

- (b) a charge is laid but, when the charge is finally disposed of, the defendant is acquitted or the charge is dismissed or withdrawn.

Exception

(8) Despite subsection (7), if the Chief Animal Welfare Inspector has reasonable grounds to believe that the animal may be placed in distress or trained to fight another animal if returned to its owner or custodian,

- (a) the Chief Animal Welfare Inspector may decide to take the animal into the Chief Animal Welfare Inspector's care; and
 (b) the notice provisions in subsections 31 (7) and (8) apply, with necessary modifications.

Conflict with order

(9) The Chief Animal Welfare Inspector's ability to take an animal into the Chief Animal Welfare Inspector's care in subsection (8) prevails over any order to return the animal made under section 159 of the *Provincial Offences Act*.

Forfeiture of things

(10) A thing seized under this Part is forfeited to the Crown in right of Ontario if the identity of the person from whom the thing was seized has not been ascertained within the prescribed period of time after the seizure.

Forfeiture of animals

(11) An animal seized under this Part is forfeited to the Crown in right of Ontario if the identity of the owner or custodian of the animal has not been ascertained within the prescribed period of time after the seizure.

Forfeiture of dead animals, etc.

(12) Despite any order under Part VIII of the *Provincial Offences Act*, any dead animal, plant or other organism that is seized is forfeited to the Crown in right of Ontario if, in the opinion of the person who has custody of it, it is likely to spoil.

Forfeiture on conviction

Animal fighting

45 (1) If a person is convicted of an offence for contravening section 16, any animal seized in connection with the offence is forfeited to the Crown in right of Ontario.

Possession or ownership

(2) If a person is convicted of an offence for contravening subsection 16 (3) or (4), section 18 or section 20 as a result of their possession or ownership of an animal or thing, the animal or thing is forfeited to the Crown in right of Ontario.

Application

(3) Subsections (1) and (2) apply in addition to any other penalty.

Application by person with interest

(4) If an animal is forfeited to the Crown in right of Ontario pursuant to subsection (1), a person who claims an interest in the animal, and who is not the person who was convicted, may apply to a justice for an order directing that the animal be released to the person claiming the interest.

Same

(5) An application under subsection (4) must be made within the prescribed period of time after the animal is forfeited and must be made on notice to the Chief Animal Welfare Inspector and any other prescribed person.

Conditions

(6) An order made under subsection (4) is subject to such conditions as may be imposed by the justice.

Forfeiture by motion in proceeding where possession or ownership is an offence

46 (1) On motion in a proceeding under the *Provincial Offences Act*, or on application in accordance with the rules of court applicable to applications under that Act, a justice shall determine whether possession or ownership of an animal or thing seized is an offence by virtue of contravening subsection 16 (3) or (4), section 18 or section 20 and, if it is, the justice shall order that the animal or thing be forfeited to the Crown in right of Ontario.

Application of subs. (1)

(2) Subsection (1) applies whether or not a charge is laid in respect of the animal or thing seized and, if a charge is laid, subsection (1) applies even if the defendant is acquitted or the charge is dismissed or withdrawn.

Required self-identification

47 (1) An animal welfare inspector who has reasonable grounds to believe that a person is contravening, has contravened or is about to contravene subsection 15 (1) or (2) or section 16, 17 or 18 may require the person to provide his or her name and address.

Failure or suspected failure to self-identify

(2) If the person refuses to give his or her name or address, or if the animal welfare inspector has reasonable grounds to believe that the name or address given is false, the animal welfare inspector may call upon a police officer who may arrest the person without warrant.

Same

(3) If the person attempts to leave before a police officer can arrest the person under subsection (2), the animal welfare inspector may arrest the person without warrant and shall promptly call for the assistance of a police officer and give the arrested person into the custody of the police officer.

Deemed arrest

(4) A police officer to whom the custody of a person is given under subsection (3) shall be deemed to have arrested the person for the purposes of the content of the *Provincial Offences Act* applying to his or her release or continued detention and bail.

Reasonable grounds to believe name or address is false

(5) For greater certainty, the failure on the part of an individual who is requested to provide their name or address to also produce an identification card or similar document, shall not, by itself, constitute reasonable grounds to believe that the name or address given is false.

Police assistance and use of force

48 (1) An animal welfare inspector may call upon police officers for assistance in exercising any of the powers referred to in this Part.

Same

(2) An animal welfare inspector, and any police officers called to assist the inspector, may use whatever force is reasonably necessary to exercise any of the powers referred to in this Part.

**PART VIII
OFFENCES AND PENALTIES**

OFFENCES

Offences**Minor offences**

49 (1) Every person is guilty of an offence who,

- (a) contravenes,
 - (i) section 13 (Standards of care and administrative requirements for animals),
 - (ii) subsection 15 (3) (Exposure to undue risk of distress),
 - (iii) section 20 (Restricted animal possession or breeding),
 - (iv) section 21 (Prescribed activities),
 - (v) section 22 (Prescribed procedures),
 - (vi) section 23 (Prescribed items),
 - (vii) section 26 (Assisting inspector during inspection),
 - (viii) subsection 27 (6) (Subject of demand),
 - (ix) subsection 30 (4) (Required compliance with order), or
 - (x) subsection 34 (7) (No obstruction);
- (b) contravenes or fails to comply with an order of the Board; or
- (c) knowingly makes a false report to the Chief Animal Welfare Inspector or to another animal welfare inspector.

Major offences

(2) Every person is guilty of an offence who contravenes,

- (a) subsection 15 (1) (Causing distress);
- (b) subsection 15 (2) (Permitting distress);
- (c) section 16 (Animal fighting prohibitions);

- (d) section 17 (Harming law enforcement or service animal);
- (e) section 18 (Prohibited animal possession or breeding); or
- (f) section 19 (Prohibition on orca possession and breeding).

Penalty — individual, minor offences

- (3) On conviction under subsection (1), an individual is liable,
 - (a) in the case of a first offence, to a fine of not more than \$75,000, to imprisonment for a term of not more than six months, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$100,000, to imprisonment for a term of not more than one year, or to both.

Penalty — individual, major offences

- (4) On conviction under subsection (2), an individual is liable,
 - (a) in the case of a first offence, to a fine of not more than \$130,000, to imprisonment for a term of not more than two years, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$260,000, to imprisonment for a term of not more than two years, or to both.

Penalty — corporation, minor offences

- (5) On conviction under subsection (1), a corporation is liable,
 - (a) in the case of a first offence, to a fine of not more than \$100,000; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$250,000.

Penalty — corporation, major offences

- (6) On conviction under subsection (2), a corporation is liable,
 - (a) in the case of a first offence, to a fine of not more than \$500,000; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$1,000,000.

Minimum penalty for certain offences

- (7) The following offences have a minimum penalty of \$25,000:
 1. Causing an animal to be in distress in contravention of subsection 15 (1), if the conduct that caused distress resulted in either of the following:
 - i. The death of the animal.
 - ii. The euthanization of the animal after a veterinarian determines it is the most humane course of action.
 2. Permitting an animal to be in distress in contravention of subsection 15 (2), if the conduct or omission resulted in either of the following:
 - i. The death of the animal.
 - ii. The euthanization of the animal after a veterinarian determines it is the most humane course of action.
 3. Contravening subsection 16 (1) or (2) (Animal fighting prohibitions).
 4. Contravening section 17 (Harming law enforcement or service animal).

Penalty — directors, officers

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

Prohibition order

- (9) If a person is convicted of an offence listed in subclause (1) (a) (i), (ii), (iii), (iv), (v), (vi) or (ix) or subsection (2), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (8), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any 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.

Restitution order

(10) If a person is convicted of an offence listed in subclause (1) (a) (i), (ii), (iii), (iv), (v) or (ix) or subsection (2), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

(11) If a person is convicted of an offence listed in subclause (1) (a) (i), (ii), (iii), (iv), (v), (vi) or (ix) or subsection (2), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

Limitation period

50 A prosecution for an offence under this Act shall not be commenced more than two years after the day evidence of the offence first came to the attention of a provincial offences officer.

ADMINISTRATIVE PENALTIES**Administrative penalties****Notice of contravention**

51 (1) If the Chief Animal Welfare Inspector believes that a person has contravened a condition of an authorization issued under section 20 (Restricted animal possession or breeding) or 21 (Prescribed activities) or has contravened a provision prescribed by the Lieutenant Governor in Council, the Chief Animal Welfare Inspector may issue a notice of contravention to the person setting out his or her belief and requiring the person to pay the administrative penalty prescribed for the contravention in question.

Purposes of administrative penalty

- (2) The following are the purposes for which a person may be required to pay an administrative penalty under this section:
1. To encourage compliance with this Act and the regulations.
 2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of a contravention of this Act or the regulations.

Amount of administrative penalty

(3) The amount of an administrative penalty prescribed for a contravention shall reflect the purposes referred to in subsection (2).

One-year limitation

(4) A notice of contravention shall not be issued under this section more than one year after the contravention first came to the knowledge of an animal welfare inspector.

Content of notice of contravention

- (5) The notice of contravention shall,
- (a) contain or be accompanied by information setting out the nature of the contravention;
 - (b) set out the amount of the penalty to be paid and specify the time and manner of the payment; and
 - (c) inform the person of his or her right to apply for a review of the notice by an entity prescribed by the Lieutenant Governor in Council.

Right to review

(6) A person who receives a notice of contravention may require an entity prescribed by the Lieutenant Governor in Council to review the notice of contravention by applying to the prescribed entity for a review in a form approved by the Chief Animal Welfare Inspector,

- (a) within 15 days after receipt of the notice of contravention; or
- (b) if the prescribed entity considers it appropriate in the circumstances to extend the time for applying, within the period specified by the prescribed entity.

If no review requested

(7) If a person who has received a notice of contravention does not apply for a review under subsection (6), the person shall pay the penalty within 30 days after the day the notice of contravention was served.

If review requested

(8) If a person who has received a notice of contravention applies for a review under subsection (6), the prescribed entity shall conduct the review in accordance with the regulations made by the Lieutenant Governor in Council.

Review decision

(9) Upon a review, the prescribed entity may,

- (a) find that the person did not contravene the provision of this Act or of the regulations specified in the notice of contravention and rescind the notice;
- (b) find that the person did contravene the provision of this Act or of the regulations specified in the notice of contravention and affirm the notice; or
- (c) find that the person did contravene the provision but that the prescribed penalty is excessive in the circumstances and amend the notice by reducing the amount of the penalty.

Decision final

(10) A decision by the prescribed entity is final.

Payment after review

(11) If the prescribed entity finds that a person has contravened the provision of this Act or of the regulations specified in the notice of contravention, the person shall pay the penalty required by the prescribed entity within 30 days after the day of the entity's decision.

Payment to Minister of Finance

(12) A person who is required to pay a penalty under this section shall pay the penalty to the Minister of Finance.

Enforcement of administrative penalty

52 (1) If a person who is required to pay an administrative penalty under section 51 fails to pay the penalty within the time required under subsection 51 (7) or (11), the notice of contravention or the prescribed entity's decision, as the case may be, may be filed with a local registrar of the Superior Court of Justice and may be enforced as if it were an order of the court.

Same

(2) Section 129 of the *Courts of Justice Act* applies in respect of a notice of contravention or decision filed with the Superior Court of Justice under subsection (1) and, for the purpose, the date on which the notice of contravention or decision is filed under subsection (1) shall be deemed to be the date of the order that is referred to in section 129 of the *Courts of Justice Act*.

Crown debt

53 An administrative penalty imposed under section 51 that is not paid within the time required under that section is a debt due to the Crown in right of Ontario and enforceable as such.

Chief Animal Welfare Inspector may authorize collector

54 (1) The Chief Animal Welfare Inspector may authorize any person to act as a collector for the purposes of this section and sections 55 and 56 and to exercise the powers that the Chief Animal Welfare Inspector specifies in the authorization to collect administrative penalties owing under this Act.

Costs of collection

(2) Despite clause 22 (a) of the *Collection and Debt Settlement Services Act*, the Chief Animal Welfare Inspector may also authorize a collector to collect a reasonable fee or reasonable disbursements, or both, from each person from whom the collector seeks to collect administrative penalties owing under this Act.

Same

(3) The Chief Animal Welfare Inspector may impose conditions on an authorization under subsection (2) and may determine what constitutes a reasonable fee or reasonable disbursements for the purposes of that subsection.

Exception re disbursements

(4) The Chief Animal Welfare Inspector shall not authorize a collector who is required to be registered under the *Collection and Debt Settlement Services Act* to collect disbursements.

Collector's powers

55 (1) A collector may exercise any of the powers specified in an authorization of the Chief Animal Welfare Inspector under section 54.

Fees and disbursements part of order

(2) If a collector is seeking to collect an administrative penalty owing under a notice of contravention, any fees and disbursements authorized under subsection 54 (2) shall be deemed to be owing under, and shall be deemed to be added to, the amount of the penalty set out in the notice of contravention.

Distribution of money collected

(3) A collector shall pay the amount collected under this section with respect to the penalty to the Minister of Finance and may retain the amount collected with respect to the collector's fees and disbursements.

Settlement by collector

56 (1) A collector may agree to a settlement with the person from whom he or she seeks to collect money, but only with the written agreement of the Chief Animal Welfare Inspector.

Payment

(2) The person who owes money under a settlement shall pay the amount agreed upon to the collector, who shall pay it out in accordance with subsection 55 (3).

Other means not a bar

57 The Chief Animal Welfare Inspector may issue a notice of contravention to a person under subsection 51 (1) even though,

- (a) an order has been made or may be made against the person under section 30; or
- (b) the person has been or may be prosecuted for or convicted of an offence with respect to the same contravention.

ORDERS TO REMOVE ORCAS**Order to remove orca**

58 (1) If a person is convicted of possessing an orca in Ontario in contravention of section 19, the court shall order the person to remove the orca from Ontario within a period of time specified by the court.

Prohibition does not apply

(2) The prohibition against possessing an orca in section 19 does not apply in respect of an orca that is the subject of an order under subsection (1) until the period of time specified by the court has elapsed.

Offence, failure to remove orca

(3) A person who fails to comply with an order described in subsection (1) is guilty of an offence.

Penalty — individuals

(4) An individual who commits an offence under subsection (3) is liable on conviction to a fine of not more than \$260,000 or to imprisonment for a term of not more than two years, or to both.

Penalty — corporations

(5) A corporation that commits an offence under subsection (3) is liable on conviction to a fine of not more than \$1,000,000.

Penalty — directors, officers

(6) A director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (3) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Order to allow Chief Animal Welfare Inspector to cause orca to be removed

59 (1) If a person has been convicted of an offence for contravening subsection 58 (3), and if the person continues to possess the orca in Ontario, the Chief Animal Welfare Inspector may apply to a judge of the Ontario Court of Justice for any order necessary to allow the Chief Animal Welfare Inspector to cause the orca to be removed from Ontario.

Costs

(2) If an order is made under subsection (1), the person referred to in that subsection shall pay the Minister of Finance any costs that the Chief Animal Welfare Inspector incurred in bringing the application and any costs the Chief Animal Welfare Inspector incurs in causing the orca to be removed from Ontario.

**PART IX
GENERAL**

POWERS OF POLICE, VETERINARIANS, ETC.

Police and First Nations Constable powers

60 (1) Subject to the regulations, a police officer or First Nations Constable may exercise the powers of an animal welfare inspector under sections 28, 29, 31, 32, 33, 41, 42, 43, 44, 47 and 48.

Exercise of powers to be reported

(2) A chief of police, or person who is in charge of a group of First Nations Constables, shall report as prescribed to the Chief Animal Welfare Inspector regarding the exercise of powers described in subsection (1) by police officers or First Nations Constables who are under that person's direction.

Prompt notice to animal welfare inspector

(3) A police officer or First Nations Constable who exercises the power in section 31 to take possession of an animal shall promptly notify an animal welfare inspector.

Inspector to take possession

(4) The animal welfare inspector who is notified under subsection (3) shall inspect the animal and determine whether to take possession of it pursuant to section 31.

Veterinarian may euthanize animal

61 (1) A veterinarian may euthanize an animal if,

- (a) the animal is suffering;
- (b) the animal's owner or custodian cannot be found promptly, or the veterinarian reasonably believes that,
 - (i) the animal does not have an owner or custodian, or
 - (ii) the animal's owner or custodian has abandoned the animal; and
- (c) in the veterinarian's opinion, euthanization is the most humane course of action.

Not a limitation

(2) Subsection (1) does not limit any other authority a veterinarian may have to euthanize an animal.

Shelter deemed to be owner

62 A prescribed entity operating an animal shelter that takes custody of an animal is deemed to be the owner of the animal for all purposes if,

- (a) no person is identified as the animal's owner or custodian within a prescribed period of time; or
- (b) the owner or custodian of the animal has not claimed the animal within a prescribed period of time.

FORFEITURE

Authority to deal with animal as if owner

63 (1) If an animal, other than a prohibited animal, is forfeited to the Crown in right of Ontario under this Act, the Chief Animal Welfare Inspector shall take the animal into the Chief Animal Welfare Inspector's care and shall have the authority to deal with the animal as if the Chief Animal Welfare Inspector were the owner.

Prohibited animal

(2) The Chief Animal Welfare Inspector shall deal with a prohibited animal forfeited to the Crown in right of Ontario under this Act in accordance with the regulations.

***Escheats Act, 2015* does not apply**

64 The *Escheats Act, 2015* does not apply to property that is forfeited to the Crown in right of Ontario under this Act.

EXEMPTION AND IMMUNITY

Exemption for seizure in accordance with Act for officers, etc.

65 A police officer, First Nations Constable, animal welfare inspector, or a person who is acting on behalf of the Chief Animal Welfare Inspector, is exempt from the following offences if the animals, equipment or structures have been seized under this Act:

1. Contravening subsection 16 (3) (Animal fighting equipment) or 16 (4) (Animal fighting structure).

2. Possessing a prohibited animal in contravention of section 18.
3. Possessing a restricted animal without authorization in contravention of section 20.
4. Possessing an orca in contravention of section 19 for the purpose of causing it to be removed from Ontario in accordance with an order made under subsection 59 (1).

Immunity

66 (1) No animal welfare inspector, veterinarian, member of the Board or person acting in accordance with section 34 is personally liable for any act done in good faith in the execution or intended execution of the person's powers or duties under this Act or for any neglect or default in the execution, in good faith, of the person's powers or duties under this Act.

Crown liability

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject.

CONFLICT

Conflict with municipal by-laws

67 In the event of a conflict between a provision of this Act or of a regulation made under this Act and of a municipal by-law pertaining to the welfare of or the prevention of cruelty to animals, the provision that affords the greater protection to animals shall prevail.

SERVICE

Service of orders, notices, etc.

68 Any order, notice or statement of account required or authorized to be served under this Act shall be served personally or by registered mail, courier, fax, electronic mail or other prescribed method in accordance with the regulations.

PART X REGULATIONS

Regulations — Lieutenant Governor in Council

- 69** (1) The Lieutenant Governor in Council may make regulations,
- (a) respecting anything that, in this Act, may or must be prescribed by the Lieutenant Governor in Council or done by regulation made by the Lieutenant Governor in Council;
 - (b) prescribing additional duties for the Chief Animal Welfare Inspector;
 - (c) prescribing the nature of the information that may be disclosed under subsection 2 (7) by the Chief Animal Welfare Inspector or a designate, to whom it may be disclosed and the circumstances in which it may be disclosed;
 - (d) prescribing standards of care for the purposes of this Act, including prescribing different standards in respect of different classes of animals, circumstances, conditions or activities;
 - (e) prescribing administrative requirements for the purposes of this Act, including, but not limited to,
 - (i) prescribing different administrative requirements in respect of different classes of animals, circumstances, conditions or activities,
 - (ii) requiring the establishment of a committee to oversee an animal's welfare and prescribing the functions, duties, governance and operation of such a committee,
 - (iii) requiring a committee referred to in subclause (ii) to develop and implement a plan to promote an animal's care,
 - (iv) requiring the development and implementation of a program designed by a veterinarian to provide care for an animal,
 - (v) requiring specified records to be kept or disclosed;
 - (f) exempting persons who meet the requirements set out in subsection 18 (2) from the prohibition against possessing or breeding a prohibited animal, and specifying conditions or restrictions for any such exemption;
 - (g) establishing and governing a regime to authorize persons to possess or breed a restricted animal in Ontario, which may include,
 - (i) the issuance of licences, or some other form of authorization, which may be subject to conditions,
 - (ii) authorizing a person to establish, impose, amend or revoke conditions on the licences or authorizations,
 - (iii) a procedure for the renewal or expiry of a licence or authorization,

- (iv) prescribing and requiring the payment of fees for the issuance or renewal of a licence or authorization,
 - (v) a procedure for licences or authorizations to be revoked or to be subjected to additional conditions,
 - (vi) exempting persons from the requirement to be authorized to possess or breed a restricted animal, and specifying conditions or restrictions for any such exemption;
- (h) establishing and governing a regime to authorize persons to engage in activities prescribed by the Lieutenant Governor in Council with respect to animals, which may include,
- (i) the issuance of licences or some other form of authorization, which may be subject to conditions,
 - (ii) authorizing a person to establish, impose, amend or revoke conditions on the licences or authorizations,
 - (iii) a procedure for the renewal or expiry of a licence or authorization,
 - (iv) prescribing and requiring the payment of fees for the issuance or renewal of a licence or authorization,
 - (v) a procedure for licences or authorizations to be revoked or to be subjected to additional conditions,
 - (vi) exempting persons from the requirement to be authorized to engage in an activity prescribed by the Lieutenant Governor in Council with respect to animals, and specifying conditions or restrictions for any such exemption;
- (i) prescribing procedures that persons shall not cause an animal to undergo, which may include exempting persons from the prohibition on the procedure and specifying conditions or restrictions for any such exemption;
- (j) prescribing items which may cause an animal distress that persons shall not possess, purchase or sell, which may include exempting persons from the prohibition on the possession, purchase or sale of the item and specifying conditions or restrictions for any such exemption;
- (k) governing administrative penalties for the purposes of this Act and all matters necessary and incidental to the administration of a system of administrative penalties under this Act, including, but not limited to,
- (i) providing that the amount of a penalty for a contravention is increased by a specified amount for each subsequent contravention that occurs within a specified period,
 - (ii) providing for penalties in the form of lump sum amounts and of daily amounts, prescribe the circumstances in which either or both types of amounts may be required and, in the case of a daily amount, prescribe the maximum number of days for which a daily amount may be imposed,
 - (iii) providing for the time and manner of payment;
- (l) governing reviews of notices of contraventions under section 51, including prescribing an entity to conduct the reviews;
- (m) governing transitional matters that may arise due to the enactment of this Act;
- (n) respecting any matter that is necessary or advisable to implement this Act effectively.

Regulations — Minister

- (2) The Minister may make regulations,
- (a) respecting anything that, in this Act, may or must be prescribed or done by regulation, other than by the Lieutenant Governor in Council;
 - (b) governing the training of animal welfare inspectors;
 - (c) governing the qualifications of animal welfare inspectors;
 - (d) governing the equipment that animal welfare inspectors are permitted or required to use;
 - (e) governing the records that animal welfare inspectors are required to keep and reports they are required to make;
 - (f) governing the use of data standards, electronic systems and processes, information technology and communication technology by animal welfare inspectors;
 - (g) governing the conduct and duties of animal welfare inspectors;
 - (h) governing the provision of information by public sector bodies to the person or unit specified by the Chief Animal Welfare Inspector, including prescribing,
 - (i) the information that must be provided,
 - (ii) the manner in which the information must be provided, which may include requiring information to be automatically provided electronically to the Chief Animal Welfare Inspector,
 - (iii) the frequency with which the information must be provided;

- (i) governing the report required under section 14, including its contents and the manner of making the report;
- (j) governing applications for and the issue of warrants by telephone or other means of telecommunication under this Act, prescribing rules for the execution of such warrants and prescribing evidentiary rules with respect to such warrants;
- (k) governing inspections conducted under this Act, including prescribing conditions that must be met in order to exercise an inspection power;
- (l) governing the exercise of an animal welfare inspector's powers by a police officer or First Nations Constable;
- (m) governing the reports required by subsection 60 (2), including prescribing,
 - (i) the information that must be provided in the report,
 - (ii) the manner in which the information must be provided, which may include requiring information to be automatically provided electronically to the Chief Animal Welfare Inspector,
 - (iii) the frequency with which the information must be provided;
- (n) prescribing fees and allowances that shall be paid to persons rendering services in connection with the Chief Animal Welfare Inspector's duty to arrange for necessities set out in paragraph 5 of subsection 2 (2) or in connection with animal welfare inspectors' powers to supply necessities in section 33 (Supply necessities to animals), and providing for the adjustment of such fees and allowances in special circumstances.

Forms

- (3) The Minister may approve forms for the purposes of this Act and provide for or require their use.

PART XI TRANSITION

Ontario Society for the Prevention of Cruelty to Animals Act

70 (1) An order made under section 13 of the *Ontario Society for the Prevention of Cruelty to Animals Act* is deemed to have been made by an animal welfare inspector under section 30 of this Act.

Same

(2) Subject to the modification set out in subsection (3), the *Ontario Society for the Prevention of Cruelty to Animals Act* continues to apply in respect of any animal removed under section 14 of that Act before its repeal.

Same

(3) The Chief Animal Welfare Inspector is deemed to have been appointed as the Chief Inspector under subsection 21.1 (1) of the *Ontario Society for the Prevention of Cruelty to Animals Act* for the interim period for the purposes of any proceedings continued due to the application of subsection (2) of this section.

Same

(4) Any member of the Animal Care Review Board who held their appointment under the *Ontario Society for the Prevention of Cruelty to Animals Act* immediately before that Act was repealed continue to be appointed under this Act.

PART XII SELF-AMENDMENTS, CONSEQUENTIAL AMENDMENTS AND REPEAL

Self-amendments

71 (1) The definition of “chief of police” in subsection 1 (1) of this Act is amended by striking out “*Police Services Act*” at the end and substituting “*Community Safety and Policing Act, 2019*”.

(2) The definition of “First Nations Constable” in subsection 1 (1) of this Act is repealed.

(3) Subsection 1 (1) of this Act is amended by adding the following definition:

“First Nation Officer” has the same meaning as in the *Community Safety and Policing Act, 2019*; (“agent de Première Nation”)

(4) The definition of “police officer” in subsection 1 (1) of this Act is amended by striking out “*Police Services Act*” at the end and substituting “*Community Safety and Policing Act, 2019*”.

(5) Section 60 of this Act is repealed and the following substituted:

Police and First Nation Officer powers

60 (1) Subject to the regulations, a police officer or First Nation Officer may exercise the powers of an animal welfare inspector under sections 28, 29, 31, 32, 33, 41, 42, 43, 44, 47 and 48.

Exercise of powers to be reported

(2) A chief of police, or person who is in charge of a group of First Nation Officers, shall report as prescribed to the Chief Animal Welfare Inspector regarding the exercise of powers described in subsection (1) by police officers or First Nation Officers who are under that person's direction.

Prompt notice to animal welfare inspector

(3) A police officer or First Nation Officer who exercises the power in section 31 to take possession of an animal shall promptly notify an animal welfare inspector.

Inspector to take possession

(4) The animal welfare inspector who is notified under subsection (3) shall inspect the animal and determine whether to take possession of it pursuant to section 31.

(6) Section 65 of this Act is amended by striking out "First Nations Constable" in the portion before paragraph 1 and substituting "First Nation Officer".

(7) Clause 69 (2) (1) of this Act is amended by striking out "First Nations Constable" at the end and substituting "First Nation Officer".

Animals for Research Act

72 (1) The definition of "pound" in subsection 1 (1) of the *Animals for Research Act* is amended by striking out "used by any person or body of persons, including the Ontario Society for the Prevention of Cruelty to Animals or any society affiliated therewith, for" and substituting "used by any person or body of persons for".

(2) Section 1.1 of the Act is repealed and the following substituted:

Non-application of the *Provincial Animal Welfare Services Act, 2019*

1.1 (1) Subject to subsection (2), the *Provincial Animal Welfare Services Act, 2019* does not apply in respect of an animal in the possession of the operator of a registered research facility or of a licensed operator of a supply facility.

Exception

(2) Section 19, clause 49 (2) (f), subsections 49 (4), (6), (8), (9), (10) and (11) and sections 58 and 59 of the *Provincial Animal Welfare Services Act, 2019* apply in respect of an orca, as defined in that Act, in the possession of the operator of a registered research facility or of a licensed operator of a supply facility.

Animal Health Act, 2009

73 Subsection 19 (12) of the *Animal Health Act, 2009* is amended by striking out "section 11.1 of the *Ontario Society for the Prevention of Cruelty to Animals Act*" at the end and substituting "section 13 of the *Provincial Animal Welfare Services Act, 2019*".

Dog Owners' Liability Act

74 Paragraph 3 of section 12 of the *Dog Owners' Liability Act* is repealed.

Ontario Society for the Prevention of Cruelty to Animals Act

75 The *Ontario Society for the Prevention of Cruelty to Animals Act* is repealed.

**PART XIII
COMMENCEMENT AND SHORT TITLE**

Commencement

76 (1) Subject to subsections (2) to (6), this Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsection 4 (4) comes into force on the later of,

(a) the day subsection 4 (1) of this Act comes into force; and

(b) the day section 6 of Schedule 31 to the *Protecting What Matters Most Act (Budget Measures), 2019* comes into force.

(3) Subsections 71 (1), (2), (3) and (4) come into force on the later of,

(a) the day subsection 1 (1) of this Act comes into force; and

(b) the day subsection 2 (1) of Schedule 1 (*Community Safety and Policing Act, 2019*) to the *Comprehensive Ontario Police Services Act, 2019* comes into force.

(4) Subsection 71 (5) comes into force on the later of,

(a) the day section 60 of this Act comes into force; and

- (b) the day subsection 2 (1) of Schedule 1 (*Community Safety and Policing Act, 2019*) to the *Comprehensive Ontario Police Services Act, 2019* comes into force.
- (5) Subsection 71 (6) comes into force on the later of,
 - (a) the day section 65 of this Act comes into force; and
 - (b) the day subsection 2 (1) of Schedule 1 (*Community Safety and Policing Act, 2019*) to the *Comprehensive Ontario Police Services Act, 2019* comes into force.
- (6) Subsection 71 (7) comes into force on the later of,
 - (a) the day clause 69 (2) (1) of this Act comes into force; and
 - (b) the day subsection 2 (1) of Schedule 1 (*Community Safety and Policing Act, 2019*) to the *Comprehensive Ontario Police Services Act, 2019* comes into force.

Short title

77 The short title of this Act is the *Provincial Animal Welfare Services Act, 2019*.