

**2011/12 Legislative Session: 4th Session, 39th Parliament
FIRST READING**

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**HONOURABLE DON McRAE
MINISTER OF AGRICULTURE**

**BILL 24 – 2012
PREVENTION OF CRUELTY TO ANIMALS AMENDMENT ACT,
2012**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Explanatory Note

1 Section 1 (1) of the Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372, is amended by striking out "person responsible for an animal" or "person responsible for the animal" and substituting "person responsible", in relation to an animal, '.

Explanatory Note

2 Section 6 is amended

(a) in subsection (2) by striking out "Lieutenant Governor in Council" and substituting "minister", and

(b) by adding the following subsections:

(4) If the minister considers it to be in the public interest, the minister may, by order and in respect of the matters described in

subsection (1), make a new bylaw or amend or repeal an existing bylaw.

(5) A new bylaw or an amendment or a repeal of an existing bylaw made by order of the minister under subsection (4)

(a) comes into force on the date the order is made, unless a later date is specified in the order, and

(b) prevails to the extent of any conflict or inconsistency with a bylaw made by the society.

(6) Written notice of the intention to make, amend or repeal a bylaw by order of the minister under subsection (4) must be given by the minister to the society at least 90 days before the order comes into force, unless a shorter notice period is specified in the written notice.

Explanatory Note

3 The following section is added:

Reporting requirements

6.1 (1) The minister may, by order, require the society to do one or both of the following:

(a) report on any matter relevant to the administration of this Act or the exercise of powers or performance of duties under this Act;

(b) make a report under paragraph (a) public.

(2) The society must comply with an order made under subsection (1) in the manner and form, and within the time, set out in the order.

Explanatory Note

4 Sections 17 and 18 are repealed and the following substituted:

Disposition of abandoned animals taken into custody

17 If an animal is taken into custody under section 10.1 and

(a) the owner is unknown, the society may destroy, sell or otherwise dispose of the animal after the society has held the animal for a period of at least 4 days, or

(b) the owner is known, the society

(i) must give to the owner notice, in accordance with section 19, that the society may destroy, sell or otherwise dispose of the animal and that a review of the decision may be requested under section 20.2, and

(ii) may, no earlier than 4 days after giving notice, destroy, sell or otherwise dispose of the animal.

Disposition of animals in distress taken into custody

18 If an animal is taken into custody under section 11, the society

(a) must give notice, in accordance with section 19, to

(i) the person from whom the animal was taken, and

(ii) if the person from whom the animal was taken is not the owner and the owner is known, the owner

that the society may destroy, sell or otherwise dispose of the animal and that a review of the decision may be requested under section 20.2, and

(b) may, no earlier than 14 days after giving notice, destroy, sell or otherwise dispose of the animal.

Explanatory Note

5 Section 19 is amended

(a) in paragraphs (a) and (b) by striking out "on the owner," and substituting "on the person to whom notice must be given," and

(b) in paragraph (b) (ii) by striking out "owner's last known address" and substituting "last known address of the person to whom notice must be given".

Explanatory Note

6 Section 20 is amended

(a) in subsection (1) by striking out "for the costs" and substituting "for the reasonable costs",

(b) in subsection (2) by striking out "pay the costs" and substituting "pay all or part of the costs, with or without conditions,", and

(c) by adding the following subsection:

(5) Payment of costs under subsection (2) of this section does not prevent an appeal under section 20.3.

Explanatory Note

7 The following Part is added:

PART 3.1 – REVIEWS AND APPEALS

Definition

20.1 In this Part, "**board**" means the British Columbia Farm Industry Review Board continued under the *Natural Products Marketing (BC) Act*.

Review of decisions

20.2 (1) The society may review a decision of an authorized agent to take custody of an animal under section 10.1 or 11

(a) on request of a person who owns, or is an operator in relation to, the animal,

(b) on request of a person from whom custody of the animal was taken under section 10.1 or 11, or

(c) on its own initiative.

(2) A request for a review may be made to the society

(a) in the form required by the society, and

(b) within,

- (i) if section 17 (b) applies, 4 days after notice is given as required by that section, or
- (ii) if section 18 applies, 14 days after notice is given as required by that section.

(3) If a review is requested in accordance with subsection (2), the society

- (a) must review the decision, and
- (b) must not destroy, sell or otherwise dispose of the animal, except to return the animal to its owner or to the person from whom custody was taken.

(4) The society, following a review, must

- (a) return the animal to its owner or to the person from whom custody was taken, with or without conditions respecting
 - (i) the food, water, shelter, care or veterinary treatment to be provided to that animal, and
 - (ii) any matter that the society considers necessary to maintain the well-being of that animal, or
- (b) affirm the notice that the animal will be destroyed, sold or otherwise disposed of.

(5) The society must provide to the person who requested the review

- (a) written reasons for an action taken under subsection (4), and
- (b) notice that an appeal may be made under section 20.3.

(6) If the society affirms a notice under subsection (4) (b), the society must not destroy, sell or otherwise dispose of the animal for at least 4 days after providing reasons and notice under subsection (5).

(7) A person may not request further review under this section of the same decision.

Appeals

20.3 (1) A person who owns, or is an operator in relation to, an animal, or a person from whom custody of an animal was taken under section 10.1 or 11, may appeal to the board one or more of the following:

(a) if no action has been taken under section 20.2 (4) within 28 days after a request for a review is made, the decision to take custody of the animal under section 10.1 or 11;

(b) if action has been taken under section 20.2 (4) (b), the decision to affirm a notice under section 19 that the animal will be destroyed, sold or otherwise disposed of;

(c) the amount of costs for which an owner is liable under section 20 (1);

(d) the amount of costs that an owner must pay under section 20 (2) before the animal is returned to the owner.

(2) A person referred to in subsection (1) may file a notice of appeal with the board as follows:

(a) in respect of an appeal under subsection (1) (a), no earlier than 28 days after the request for a review is made;

(b) in respect of an appeal under subsection (1) (b), within 4 days after receiving reasons under section 20.2 (5) (a);

(c) in respect of an appeal under subsection (1) (c) or (d), no later than 4 days following receipt, by the owner, of a demand for payment of costs.

(3) A person who files a notice of appeal must provide

(a) to the society, immediately on filing the notice of appeal, a copy of the filed notice of appeal, and

(b) to the board, as soon as reasonably practicable, every document in relation to the matter under appeal.

(4) On receiving notice under subsection (3), the society is a party to the appeal and must provide to the board, as soon as reasonably practicable, every bylaw and document in relation to the matter under appeal.

Interim stays

20 . 4 (1) If, at the time of receiving a copy of the filed notice of appeal under section 20.3 (3) (a), the society has custody of the animal that is the subject of the appeal, the society

(a) continues to have custody of that animal, and

(b) unless section 12 applies, must not destroy, sell or otherwise dispose of that animal until the board makes a final determination of the appeal.

(2) If subsection (1) applies, the owner of the animal remains liable to the society for the reasonable costs incurred by the society with respect to that animal.

Hearings

20 . 5 (1) For the purposes of an appeal under this Act,

(a) sections 11 to 20, 22, 26, 31, 32, 34 (3) and (4), 35 to 42, 47, 49 to 56 and 60 of the *Administrative Tribunals Act* apply to the board, and

(b) despite section 3.1 of the *Natural Products Marketing (BC) Act*,

(i) section 46.2 of the *Administrative Tribunals Act* does not apply to the board, and

(ii) section 46.3 of the *Administrative Tribunals Act* applies to the board.

(2) For the purposes of making a determination in an appeal, the board may, with consent of the owner or occupier,

- (a) enter any premises
 - (i) from which the animal that is the subject of the appeal has been taken into custody, or
 - (ii) on which a person intends to keep the animal that is the subject of the appeal if the person regains custody of that animal, and
- (b) inspect the premises and any equipment or other thing on the premises that are relevant to the determination of the appeal.

(3) If the owner or occupier does not consent to one or more of the matters referred to in subsection (2), the board may draw an adverse inference from the refusal to consent.

(4) The board, at any time before making a determination in an appeal, may

- (a) inquire into matters relevant to the appeal, and, as part of that inquiry, obtain the advice of persons who are knowledgeable about those matters, and
- (b) determine, subject to any regulations made under section 26 (2) (o), the remuneration of the persons referred to in paragraph (a) of this subsection.

Determination of appeal

20.6 On hearing an appeal in respect of an animal, the board may do one or more of the following:

- (a) require the society to return the animal to its owner or to the person from whom custody was taken, with or without conditions respecting
 - (i) the food, water, shelter, care or veterinary treatment to be provided to that animal, and
 - (ii) any matter that the board considers necessary to maintain the well-being of that animal;

- (b) permit the society, in the society's discretion, to destroy, sell or otherwise dispose of the animal;
- (c) confirm or vary the amount of costs for which the owner is liable under section 20 (1) or that the owner must pay under section 20 (2).

Explanatory Note

8 Section 22 is repealed and the following substituted:

Others who may act as authorized agents

22 The following persons may exercise the powers of an authorized agent under this Act in a part of British Columbia in which the society does not function through an authorized agent:

- (a) a peace officer who has jurisdiction in that part of British Columbia;
- (b) a person appointed by the minister for the purpose of exercising the powers of an authorized agent in that part of British Columbia.

Explanatory Note

9 Section 26 (2) is amended by adding the following paragraphs:

- (n) for the purpose of section 20.3 (2) (c), respecting demands for payment of costs, including deemed receipt by an owner;
- (o) for the purpose of section 20.5 (4), respecting the remuneration of persons referred to in that section.

Commencement

10 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent

2	Sections 4 to 9	By regulation of the Lieutenant Governor in Council
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Explanatory Notes

SECTION 1: ***[Prevention of Cruelty to Animals Act, section 1]*** clarifies a definition.

SECTION 2: ***[Prevention of Cruelty to Animals Act, section 6]*** authorizes the minister to make, change or disallow bylaws of the society respecting enforcement of the Act.

SECTION 3: ***[Prevention of Cruelty to Animals Act, section 6.1]*** authorizes the minister to require the society to make reports.

SECTION 4: ***[Prevention of Cruelty to Animals Act, sections 17 and 18]*** is consequential to the enactment of Part 3.1 of the Act by this Bill, and makes the wording of section 18 of the Act consistent with the wording of section 11 of the Act.

SECTION 5: ***[Prevention of Cruelty to Animals Act, section 19]*** is consequential to the amendment to section 18 of the Act by this Bill.

SECTION 6: ***[Prevention of Cruelty to Animals Act, section 20]*** is consequential to the enactment of Part 3.1 of the Act by this Bill.

SECTION 7: ***[Prevention of Cruelty to Animals Act, Part 3.1]*** provides for the review and appeal of decisions made by authorized agents and the society in relation to taking animals into custody, to the disposition of animals and to costs.

SECTION 8: ***[Prevention of Cruelty to Animals Act, section 22]*** adds a power for persons appointed by the minister to exercise the powers of authorized agents in parts of British Columbia in which no authorized agent is acting.

SECTION 9: ***[Prevention of Cruelty to Animals Act, section 26]*** is consequential to the enactment of Part 3.1 of the Act by this Bill.