

## **Ontario Society for the Prevention of Cruelty to Animals Amendments Act, 2012**

### EXPLANATORY NOTE

The Bill amends the *Ontario Society for the Prevention of Cruelty to Animals Act*. Significant changes to the Act include:

1. Repealing section 11 of the Act to remove policing powers.
2. Transferring responsibility for the prevention of cruelty to farm animals to the Minister of Agriculture, Food and Rural Affairs. The Minister must appoint inspectors for the purposes of carrying out this responsibility. (New sections 1.1 and 11 of the Act)
3. Requiring that the appointment of the Chief Inspector of the Society be subject to the approval of the Lieutenant Governor in Council and that the removal of the Chief Inspector be at the direction of the Lieutenant Governor in Council. (Revised section 6.1 of the Act)
4. Clarifying the duties of inspectors and of agents of the Society. The Bill sets out the duty of inspectors and agents to investigate complaints and report on animals in distress to the police where appropriate. The Bill also clarifies their role in educating and advising animal owners and custodians with respect to the proper care and treatment of animals. (New sections 11.0.1 and 11.0.2)
5. Removing the powers of inspectors and agents of the Society to order owners or custodians of animals to take certain actions under section 13 and to remove animals under section 14. The Bill provides that orders under section 13 of the Act are to be made by a justice of the peace or a provincial judge and that the inspector or agent must obtain the order of a justice of the peace or a provincial judge before removing an animal. (Revised sections 13 and 14 of the Act)
6. Removing provisions relating to the Animal Care Review Board. Since inspectors and agents of the Society can only act under sections 13 and 14 with the order of a justice of the peace or a provincial judge, the review board is no longer needed.
7. Repealing section 15 of the Act which made the owner or custodian of an animal responsible for paying expenses incurred by inspectors or agents of the Society in providing food, care or treatment to the animal under the Act.

8. Providing that animal owners and custodians can choose the veterinarian who examines their animal or provides care and treatment to the animal or determines to remove or destroy the animal under the Act. However, the right to choose the veterinarian does not apply in emergency situations. (Revised section 15)

The Bill makes changes to the definition of “distress” in subsection 1 (1) of the Act and adds definitions of the following terms to the Act: “farm animal”, “inspector”, “local police force” and “Society”.

The Bill makes consequential changes to the offence provisions set out in section 18.1 of the Act and to the regulation-making powers set out in section 22 of the Act.

Finally, the Bill changes to the short title of the Act. Currently the short title is “Ontario Society for the Prevention of Cruelty to Animals Act”. The new short title would be the “Prevention of Cruelty to Animals Act”.

**An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act**

Note: This Act amends the *Ontario Society for the Prevention of Cruelty to Animals Act*. For the legislative history of the Act, see the Table of Consolidated Public Statutes – Detailed Legislative History at [www.e-Laws.gov.on.ca](http://www.e-Laws.gov.on.ca).

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

**1. (1) The definition of “distress” in subsection 1 (1) of the *Ontario Society for the Prevention of Cruelty to Animals Act* is repealed and the following substituted:**

“distress” means, with respect to an animal, any sickness, injury or physical pain or suffering resulting from abuse or neglect.

**(2) Subsection 1 (1) of the Act is amended by adding the following definitions:**

“farm animal” includes such animals or classes of animals as are prescribed by regulation.

. . . . .

“inspector” means a Society inspector appointed by the Chief Inspector under subsection 6.1 (2.2) or a ministry inspector appointed by the Minister of Agriculture, Food and Rural Affairs under section 11;

. . . . .

“local police force” means the Ontario Provincial Police or a municipal police force, as appropriate;

. . . . .

“Society” means the Ontario Society of the Prevention of Cruelty to Animals continued under section 2.

**2. The Act is amended by adding the following section:**

## RESPONSIBILITY FOR PREVENTION OF CRUELTY TO ANIMALS

### **Shared responsibility**

**1.1** Responsibility for the prevention of cruelty to animals in the Province is shared in accordance with this Act between the following persons and entities:

1. The Society.
2. With respect to farm animals, the Minister of Agriculture, Food and Rural Affairs.
3. The Ontario Provincial Police and all municipal police forces.

### **3. Section 3 of the Act is amended by adding the following subsection:**

#### **Consultation**

(2) In pursuing its objects with respect to farm animals, the Society shall consult with, and where appropriate differ to, the Ministry of Agriculture, Food and Rural Affairs and local police services.

### **3. Section 6.1 of the Act is repealed and the following substituted:**

#### **Chief Inspector**

**6.1** (1) With the approval of the Lieutenant Governor in Council, the Society shall appoint a Chief Inspector of the Society.

#### **Employee**

(2) The Chief Inspector shall be employed by the Society.

#### **Removal of Chief Inspector**

(3) At the direction of the Lieutenant Governor in Council, the Society shall remove a Chief Inspector from office and appoint a new Chief Inspector.

#### **Duties**

- (4) The Chief Inspector shall,
- (a) appoint inspectors and agents of the Society for the purposes of conducting investigations and inspections under the Act with respect to non-farm animals;
  - (b) subject to the regulations, establish qualifications, requirements and standards for inspectors appointed under clause (a) and for agents of the Society;

- (c) generally oversee the performance of duties under the Act by inspectors appointed under clause (a) and by agents of the Society; and
- (d) perform such other duties as may be specified in this Act or in the regulations.

### **Powers**

- (5) The Chief Inspector may,
- (a) exercise all the power of an inspector or agent of the Society appointed under clause (4) (a);
  - (b) revoke the appointment of an inspector or of an agent of the Society appointed under clause (4) (a); and
  - (c) exercise such other powers as may be specified in this Act or in the regulations.

### **Additional powers, duties**

(6) The Chief Inspector may have additional powers and duties as are provided in the by-laws of the Society.

## **4. Section 11 of the Act is repealed and the following substituted:**

### RESPONSIBILITIES OF MINISTER OF AGRICULTURE, FOOD AND RURAL AFFAIRS

#### **Responsibilities of Minister of OMAFRA**

**11.** (1) The Minister of Agriculture, Food and Rural Affairs is responsible for ensuring compliance with the Act and the regulations with respect to farm animals and shall appoint inspectors for that purpose.

#### **Powers and duties of inspectors**

(2) The Minister of Agriculture, Food and Rural Affairs may establish qualifications, requirements and standards for inspectors appointed under subsection (1), subject to the regulations.

### INVESTIGATIONS AND INSPECTIONS

#### **Duties of inspectors and agents**

**11.0.1** The duties of an inspector appointed under this Act and of an agent of the Society are,

- (a) to observe and report on animals who are in distress;
- (b) to educate persons having care of animals on the proper methods of caring for their animals;

- (c) to conduct investigations under section 11.0.2;
- (d) to conduct inspections under sections 11.4, 11.5, 12 and 12.1;
- (e) to refer matters to the local police force where appropriate; and
- (f) to carry out such other duties as are prescribed by regulation or as may be specified by the Society or the Minister of Agriculture, Food or Rural Affairs, as the case may be.

### **Investigations, by Society**

**11.0.2** (1) If, as a result of a complaint or otherwise, the Society believes that an animal may be in distress, the Society shall,

- (a) in the case of a non-farm animal, assign an inspector or an agent appointed by the Society to investigate the matter; and
- (b) in the case of a farm animal, refer the matter to the Minister of Agriculture, Food and Rural Affairs.

### **Investigations, by OMAFRA**

(2) If, as a result of a complaint or otherwise, the Minister of Agriculture, Food and Rural Affairs believes that an animal may be in distress, the Minister shall,

- (a) in the case of a farm animal, assign an inspector appointed under section 11 to investigate the matter; and
- (b) in the case of a non-farm animal, refer the matter to the Society.

### **Investigation**

(3) An inspector or agent to whom a matter is assigned under clause (1) (a) or (2) (a) shall investigate the matter by means of observation or, with the consent of the owner or custodian of the animal in question, may examine the animal in order to determine whether the animal is in distress.

### **Advice and education**

(4) An inspector or agent who examines an animal under subsection (1) may provide advice to the owner or custodian of the animal to help improve the animal's condition.

### **Report**

(5) An inspector or agent who conducts an investigation under this section shall prepare a written report on the investigation and file the report with the Society or the Ministry of Agriculture, Food and Rural Affairs, as the case may be.

### **Copy of report to police**

(6) An inspector or agent who conducts an investigation under this section may, if he or she believes it is appropriate to do so, forward a copy of his or her report to the local police force.

### **Identification**

**11.0.3** An inspector or an agent of the Society who is exercising any power or performing any duty under this Act shall produce, on request, evidence of his or her appointment.

### **Interfering with inspectors, agents**

**11.0.4** No person shall hinder, obstruct or interfere with an inspector or an agent of the Society carrying out an inspection under this Act.

**4. Section 11.3 of the Act is amended by striking out “an animal has been or is being abused or neglected” and substituting “an animal has been or is in distress”.**

**5. Sections 13 and 14 of the Act are repealed and the following substituted:**

### **Order to take action**

**13.** (1) If a justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that an animal is in distress and that a veterinarian has examined the animal and recommended certain actions be taken, the justice of the peace or provincial judge may order the owner or custodian of the animal to,

- (a) take such actions recommended in writing by the veterinarian as necessary to relieve the animal of its distress; or
- (b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

### **Time for compliance**

(2) An order made under subsection (1) shall specify the time within which the actions specified in the order are required to be performed.

### **Inspection to determine compliance**

(3) At any time before the time for compliance specified in an order under subsection (1) has elapsed or within 10 days of such time, an inspector or agent of the Society may, with the consent of the person against whom the order was made, enter any building or place where the animal that is the subject of the order is located to inspect the animal, building or place for the purpose of determining whether the order is being complied with.

### **Same, warrant**

(4) A justice of the peace or provincial judge may issue a warrant authorizing an inspector or agent of the Society to enter a building or place in which an animal that is the subject of an order under subsection (1) is kept for the purpose of determining whether the order is being complied with, if the justice of the peace or provincial judge is satisfied by information on oath that the inspector or agent was refused consent to enter the building or place under subsection (3).

### **Other persons**

(5) An inspector or agent of the Society who enters a building or place under a warrant under subsection (4) may be accompanied by one or more veterinarians or other persons, as the inspector or agent considers advisable.

### **Order to take possession of animal**

**14.** (1) A justice of the peace or provincial judge may order an inspector or agent of the Society to remove an animal from the building or place where it is and take possession of the animal on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress, if the justice of the peace or provincial judge is satisfied by information on oath that a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal.

### **Copy of order**

(2) An inspector or agent of the Society who removes an animal pursuant to an order made under subsection (1) shall, upon removing the animal or promptly thereafter, give a copy of the order to the owner or custodian of the animal, if known.

### **Order to keep animal**

(3) A justice of the peace or provincial judge may make an order authorizing the Society to keep in its care an animal that was removed under subsection (1) if,

- (a) the owner or custodian of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection (1), with an offence under this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals; and

- (b) the justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian.

### **Order to return animal**

(4) The Society or the owner or custodian may apply to a justice of the peace or provincial judge to order the return of an animal that is the subject of an order made under subsection (3) and, if satisfied that there are no longer reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian, the justice of the peace or provincial judge may order the return of the animal to its owner or custodian, subject to any conditions that the justice of the peace or provincial judge considers appropriate.

### **Destruction of animal**

- (5) An inspector or an agent of the Society may destroy an animal only,
  - (a) with the consent of the owner; or
  - (b) upon receiving the written advice of a veterinarian who has examined the animal that, in his or her opinion, it is the most humane course of action.

### **Notice**

(6) An inspector or an agent of the Society who has destroyed an animal under subsection (5) shall forthwith serve written notice of his or her action on the owner or custodian of the animal, if known.

## **6. Section 15 of the Act is repealed and the following substituted:**

### **Choice of veterinarian**

**15.** (1) Where, under sections 11.4 to 14, a veterinarian is authorized to accompany an inspector or an agent of the Society or is permitted or required to examine an animal or provide advice or recommendations for the care, treatment, removal or destruction of an animal, the owner or custodian of the animal shall select the veterinarian or approve the choice of veterinarian.

### **Exception, emergency situation**

(2) Subsection (1) does not apply in an emergency situation where the condition of the animal requires urgent care, treatment or action and the veterinarian selected by the owner or custodian is not immediately available.

## **7. Sections 16, 17 and 18 of the Act are repealed.**

**8. (1) Clause 18.1 (1) (a) of the Act is amended by striking out “subsection 11 (5)” and substituting “section 11.0.4”.**

**(2) Clauses 18.1 (1) (d) and (e) of the Act are repealed and the following substituted:**

(d) failing to comply with an order made under subsection 13 (1);

**(3) Subsection 18.1 (7) of the Act is repealed.**

**9. Section 20 of the Act is amended by striking out “Any order, notice or statement of account” at the beginning and substituting “Any order or notice”.**

**10. (1) Clause 22 (2) (a) of the Act is repealed and the following substituted:**

(a) governing the powers and duties of the Chief Inspector of the Society;

(a.1) governing the appointment of inspectors and agents of the Society by the Chief Inspector and of inspectors by the Ministry of Agriculture, Food and Rural Affairs and the revocation of such appointments and establishing qualifications, requirements and standards for all such inspectors and for agents of the Society;

**(2) clause 22 (2) (d) of the Act is repealed and the following substituted:**

(d) prescribing forms for,

(i) the information on oath required by subsection 11.5 (1), 12 (1), 13 (1) or 14 (1) or (3),

(ii) a warrant issued under subsection 11.5 (1), 12 (1) or 13 (4), and

(iii) an order issued under subsection 13 (1), 14 (1), (3) or (4).

**(3) Clause 22 (2) (g) of the Act is amended by striking out “service of orders, notices and statements of account” and substituting “service of orders and notices”.**

**11. The short title to this Act is repealed and the following substituted:**

## **Prevention of Cruelty to Animals Act**

### **Commencement**

**12.. This Act comes into force on the day it receives Royal Assent.**

### **Short title**

**13. The short title of this Act is the *Ontario Society for the Prevention of Cruelty to Animals Amendments Act, 2012*.**