



**Law
Commission**
Reforming the law

Sentencing law in England and Wales Legislation currently in force

Part 3.8 – Animals

9 October 2015

Part 3. Sentencing powers and duties

3.8	Animals	986
3.8.1.	Disqualification orders	986
3.8.1.1.	Disqualification from keeping an animal	986
3.8.1.2.	Disqualification from having custody of a dog	990
3.8.2.	Destruction orders	994
3.8.2.1.	In the interests of the animal	994
3.8.2.2.	Animals involved in fighting	995
3.8.3.	Dogs: Destruction orders	997
3.8.3.1.	Post-conviction orders	997
3.8.3.2.	Breach	1000
3.8.3.3.	Stand-alone orders	1000
3.8.4.	Dogs: Contingent destruction orders	1002
3.8.4.1.	Stand-alone orders	1002
3.8.4.2.	Post-conviction orders	1003
3.8.5.	Payment of costs incurred in keeping the animal	1007
3.8.6.	Forfeiture of equipment	1008
3.8.7.	Appeals	1010
3.8.8.	Termination of orders	1013
3.8.9.	Reimbursement of expenses	1015
3.8.10.	Licences	1016

3.8 Animals

3.8.1. Disqualification orders

3.8.1.1. Disqualification from keeping an animal

3.8.1.1.1 Availability

When does the power to disqualify apply?

AWA 2006 s.34¹⁶⁵⁷: Disqualification

s.34(10) - this section applies to an offence under any of sections 4, 5, 6(1) and (2), 7, 8, 9 and 13(6) and subsection (9).

Availability and power to order

AWA 2006 s.34¹⁶⁵⁸: Disqualification

s.34(1) - if a person is convicted of an offence to which this section applies, the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way, make an order disqualifying him under any one or more of subsections (2) to (4) for such period as it thinks fit.

3.8.1.1.2 What does the order prohibit?

Effect of the order

AWA 2006 s.34¹⁶⁵⁹: Disqualification

s.34(2) - disqualification under this subsection disqualifies a person–

- (a) from owning animals,
- (b) from keeping animals,
- (c) from participating in the keeping of animals, and
- (d) from being party to an arrangement under which he is entitled to control or influence the way in which animals are kept.

s.34(3) - disqualification under this subsection disqualifies a person from dealing in animals.

s.34(4) - disqualification under this subsection disqualifies a person–

- (a) from transporting animals, and
- (b) from arranging for the transport of animals.

¹⁶⁵⁷ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁵⁸ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁵⁹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

Extent of the order

AWA 2006 s.34¹⁶⁶⁰: Disqualification

s.34(5) - disqualification under subsection (2), (3) or (4) may be imposed in relation to animals generally, or in relation to animals of one or more kinds.

3.8.1.1.3 Making the order

Duty to give reasons when not making an order

AWA 2006 s.34¹⁶⁶¹: Disqualification

s.34(8) - where a court decides not to make an order under subsection (1) in relation to an offender, it shall–

- (a) give its reasons for the decision in open court, and
- (b) if it is a magistrates' court, cause them to be entered in the register of its proceedings.

Power to suspend the order

AWA 2006 s.34¹⁶⁶²: Disqualification

s.34(7) - the court by which an order under subsection (1) is made may–

- (a) suspend the operation of the order pending an appeal, or
- (b) where it appears to the court that the offender owns or keeps an animal to which the order applies, suspend the operation of the order, and of any order made under section 35 in connection with the disqualification, for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the animal.

Termination of the order

AWA 2006 s.34¹⁶⁶³: Disqualification

s.34(6) - the court by which an order under subsection (1) is made may specify a period during which the offender may not make an application under section 43(1) for termination of the order.

¹⁶⁶⁰ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶¹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶² Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶³ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.1.1.4 Seizing animals in connection with disqualification

Power to order seizure

AWA 2006 s.35¹⁶⁶⁴: Seizure of animals in connection with disqualification

s.35(1) - where—

- (a) a court makes an order under section 34(1), and
 - (b) it appears to the court that the person to whom the order applies owns or keeps any animal contrary to the disqualification imposed by the order,
- it may order that all animals he owns or keeps contrary to the disqualification be taken into possession.

Power to order when disqualification order breached

AWA 2006 s.35¹⁶⁶⁵: Seizure of animals in connection with disqualification

s.35(2) - where a person is convicted of an offence under section 34(9) because of owning or keeping an animal in breach of disqualification under section 34(2), the court by or before which he is convicted may order that all animals he owns or keeps in breach of the disqualification be taken into possession.

Effect of the order

AWA 2006 s.35¹⁶⁶⁶: Seizure of animals in connection with disqualification

s.35(3) - an order under subsection (1) or (2), so far as relating to any animal owned by the person subject to disqualification, shall have effect as an order for the disposal of the animal.

Animals not owned by the defendant

AWA 2006 s.35¹⁶⁶⁷: Seizure of animals in connection with disqualification

s.35(4) - any animal taken into possession in pursuance of an order under subsection (1) or (2) that is not owned by the person subject to disqualification shall be dealt with in such manner as the appropriate court may order.

s.35(6) - where a court makes an order under subsection (4) for the disposal of an animal, the owner may—

- (a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;

¹⁶⁶⁴ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶⁵ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶⁶ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶⁷ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

- (b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

s.35(7) - in subsection (4), the reference to the appropriate court is to–

- (a) the court which made the order under subsection (1) or (2), or
- (b) in the case of an order made by a magistrates' court, to a magistrates' court for the same local justice area as that court.

Owner of the animal has a right to make representations

AWA 2006 s.35¹⁶⁶⁸: Seizure of animals in connection with disqualification

s.35(5) - a court may not make an order for disposal under subsection (4) unless–

- (a) it has given the owner of the animal an opportunity to be heard, or
- (b) it is satisfied that it is not reasonably practicable to communicate with the owner.

Meaning of “disposal”

AWA 2006 s.35¹⁶⁶⁹: Seizure of animals in connection with disqualification

s.35(8) - in this section, references to disposing of an animal include destroying it.

3.8.1.1.5 Carrying out the seizure order

AWA 2006 s.36¹⁶⁷⁰: Section 35: supplementary

s.36(1) - the court by which an order under section 35 is made may–

- (a) appoint a person to carry out, or arrange for the carrying out of, the order;
- (b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;
- (c) give directions with respect to the carrying out of the order;
- (d) confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;
- (e) order the person subject to disqualification, or another person, to reimburse the expenses of carrying out the order.

s.36(2) - directions under subsection (1)(c) may–

- (a) specify the manner in which an animal is to be disposed of, or
- (b) delegate the decision about the manner in which an animal is to be disposed of to a person appointed under subsection (1)(a).

¹⁶⁶⁸ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁶⁹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁷⁰ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

- s.36(3) - in determining how to exercise its powers under section 35 and this section, the court shall have regard, amongst other things, to—
- (a) the desirability of protecting the value of any animal to which the order applies, and
 - (b) the desirability of avoiding increasing any expenses which a person may be ordered to reimburse.
- s.36(4) - in determining how to exercise a power delegated under subsection (2)(b), a person shall have regard, amongst other things, to the things mentioned in subsection (3)(a) and (b).
- s.36(5) - if the owner of an animal ordered to be disposed of under section 35 is subject to a liability by virtue of subsection (1)(e), any amount to which he is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

3.8.1.1.6 Breach

Offence

AWA 2006 s.34¹⁶⁷¹: Disqualification

- s.34(9) - a person who breaches a disqualification imposed by an order under subsection (1) commits an offence.

Power to order when disqualification order breached

AWA 2006 s.35¹⁶⁷²: Seizure of animals in connection with disqualification

- s.35(2) - where a person is convicted of an offence under section 34(9) because of owning or keeping an animal in breach of disqualification under section 34(2), the court by or before which he is convicted may order that all animals he owns or keeps in breach of the disqualification be taken into possession.

3.8.1.2. Disqualification from having custody of a dog

3.8.1.2.1 Power to make the order

Availability and power to order

DDA 1991 s.4¹⁶⁷³: Destruction and disqualification orders

- s.4(1) - where a person is convicted of an offence under section 1 or 3(1) above or of an offence under an order made under section 2 above the court:
- (a) may order the destruction of any dog in respect of which the offence was committed and, subject to subsection (1A) below, shall do so in the case of an offence under section 1 or an aggravated offence under section 3(1) above; and

¹⁶⁷¹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁷² Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁷³ Commencement: 12 August 1991, SI 1991/1742 art.3.

- (b) may order the offender to be disqualified, for such period as the court thinks fit, for having custody of a dog.

Would the dog constitute a danger to public safety?

DDA 1991 s.4¹⁶⁷⁴: Destruction and disqualification orders

- s.4(1A) - nothing in subsection (1)(a) above shall require the court to order the destruction of a dog if the court is satisfied—
 - (a) that the dog would not constitute a danger to public safety; and
 - (b) where the dog was born before 30th November 1991 and is subject to the prohibition in section 1 (3) above, that there is a good reason why the dog has not been exempted from that prohibition.
- s.4(1B) - for the purposes of subsection (1A)(a), when deciding whether a dog would constitute a danger to public safety, the court—
 - (a) must consider—
 - (i) the temperament of the dog and its past behaviour, and
 - (ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog, and
 - (b) may consider any other relevant circumstances.

Appeals

DDA 1991 s.4¹⁶⁷⁵: Destruction and disqualification orders

- s.4(2) - where a court makes an order under subsection (1)(a) above for the destruction of a dog owned by a person other than the offender, the owner may appeal to the Crown Court against the order.

Order automatically suspended

DDA 1991 s.4¹⁶⁷⁶: Destruction and disqualification orders

- s.4(3) - a dog shall not be destroyed pursuant to an order under subsection (1)(a) above—
 - (a) until the end of the period for giving notice of appeal against the conviction or, against the order; and
 - (b) if notice of appeal is given within that period, until the appeal is determined or withdrawn,

unless the offender and, in a case to which subsection (2) above applies, the owner of the dog give notice to the court that made the order that there is to be no appeal.

¹⁶⁷⁴ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁷⁵ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁷⁶ Commencement: 12 August 1991, SI 1991/1742 art.3.

Ancillary powers when ordering destruction

DDA 1991 s.4¹⁶⁷⁷: Destruction and disqualification orders

- s.4(4) - where a court makes an order under subsection (1)(a) above it may—
- (a) appoint a person to undertake the destruction of the dog and require any person having custody of it to deliver it up for that purpose; and
 - (b) order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying the dog and of keeping it pending its destruction.

An order to pay expenses has the same status as a fine

DDA 1991 s.4¹⁶⁷⁸: Destruction and disqualification orders

- s.4(5) - any sum ordered to be paid under subsection (4)(b) above shall be treated for the purposes of enforcement as if it were a fine imposed on conviction.

Terminating the disqualification

DDA 1991 s.4¹⁶⁷⁹: Destruction and disqualification orders

- s.4(6) - any person who is disqualified for having custody of a dog by virtue of an order under subsection (1)(b) above may, at any time after the end of the period of one year beginning with the date of the order, apply to the court that made it (or a magistrates' court acting in the same local justice area as that court) for a direction terminating the disqualification.

Power to dispose of the application to terminate the disqualification

DDA 1991 s.4¹⁶⁸⁰: Destruction and disqualification orders

- s.4(7) - on an application under subsection (6) above the court may—
- (a) having regard to the applicant's character, his conduct since the disqualification was imposed and any other circumstances of the case, grant or refuse the application; and
 - (b) order the applicant to pay all or any part of the costs of the application;
- and where an application in respect of an order is refused no further application in respect of that order shall be entertained if made before the end of the period of one year beginning with the date of the refusal.

¹⁶⁷⁷ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁷⁸ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁷⁹ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁸⁰ Commencement: 12 August 1991, SI 1991/1742 art.3.

3.8.1.2.2 Breach

DDA 1991 s.4¹⁶⁸¹: Destruction and disqualification orders

s.4(8) - any person who—

- (a) has custody of a dog in contravention of an order under subsection (1)(b) above;
or
- (b) fails to comply with a requirement imposed on him under subsection (4)(a) above,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

¹⁶⁸¹ Commencement: 12 August 1991, SI 1991/1742 art.3.

3.8.2. Destruction orders

3.8.2.1. In the interests of the animal

3.8.2.1.1 Making the order

Power to order and test to apply

AWA 2006 s.37¹⁶⁸²: Destruction in the interests of the animal

s.37(1) - the court by or before which a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7, 8(1) and (2) and 9 may order the destruction of an animal in relation to which the offence was committed if it is satisfied, on the basis of evidence given by a veterinary surgeon, that it is appropriate to do so in the interests of the animal.

Owner of the animal must be given opportunity to make representations

AWA 2006 s.37¹⁶⁸³: Destruction in the interests of the animal

s.37(2) - a court may not make an order under subsection (1) unless–

- (a) it has given the owner of the animal an opportunity to be heard, or
- (b) it is satisfied that it is not reasonably practicable to communicate with the owner.

Power to appoint person to carry out the order

AWA 2006 s.37¹⁶⁸⁴: Destruction in the interests of the animal

s.37(3) - where a court makes an order under subsection (1), it may–

- (a) appoint a person to carry out, or arrange for the carrying out of, the order;
- (b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;
- (c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);
- (d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;
- (e) order the offender or another person to reimburse the expenses of carrying out the order.

¹⁶⁸² Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁸³ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁸⁴ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

Interpretation

AWA 2006 s.37¹⁶⁸⁵: Destruction in the interests of the animal

s.37(6) - in subsection (1), the reference to an animal in relation to which an offence was committed includes, in the case of an offence under section 8(1) or (2), an animal which took part in an animal fight in relation to which the offence was committed.

3.8.2.2. Animals involved in fighting

3.8.2.2.1 Power to order

AWA 2006 s.38¹⁶⁸⁶: Destruction of animals involved in fighting offences

s.38(1) - the court by or before which a person is convicted of an offence under section 8(1) or (2) may order the destruction of an animal in relation to which the offence was committed on grounds other than the interests of the animal.

Owner of the animal must be given opportunity to make representations

AWA 2006 s.38¹⁶⁸⁷: Destruction of animals involved in fighting offences

s.38(2) - a court may not make an order under subsection (1) unless–

- (a) it has given the owner of the animal an opportunity to be heard, or
- (b) it is satisfied that it is not reasonably practicable to communicate with the owner.

Power to appoint person to carry out the order

AWA 2006 s.38¹⁶⁸⁸: Destruction of animals involved in fighting offences

s.38(3) - where a court makes an order under subsection (1), it may–

- (a) appoint a person to carry out, or arrange for the carrying out of, the order;
- (b) require a person who has possession of the animal to deliver it up to enable the order to be carried out;
- (c) give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);
- (d) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;
- (e) order the offender or another person to reimburse the expenses of carrying out the order.

¹⁶⁸⁵ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁸⁶ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁸⁷ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁶⁸⁸ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

Interpretation

AWA 2006 s.38¹⁶⁸⁹: Destruction of animals involved in fighting offences

s.38(5) - in subsection (1), the reference to an animal in relation to which the offence was committed includes an animal which took part in an animal fight in relation to which the offence was committed.

¹⁶⁸⁹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.3. Dogs: Destruction orders

3.8.3.1. Post-conviction orders

Note: The provisions below are execrable on conviction. DDA 1991 s.4B contains a civil power to order the destruction of a dog.

Availability and power to order

DDA 1991 s.4¹⁶⁹⁰: Destruction and disqualification orders

- s.4(1) - where a person is convicted of an offence under section 1 or 3(1) above or of an offence under an order made under section 2 above the court:
- (a) may order the destruction of any dog in respect of which the offence was committed and, subject to subsection (1A) below, shall do so in the case of an offence under section 1 or an aggravated offence under section 3(1) above; and
 - (b) may order the offender to be disqualified, for such period as the court thinks fit, for having custody of a dog.

Would the dog constitute a danger to public safety?

DDA 1991 s.4¹⁶⁹¹: Destruction and disqualification orders

- s.4(1A) - nothing in subsection (1)(a) above shall require the court to order the destruction of a dog if the court is satisfied—
- (a) that the dog would not constitute a danger to public safety; and
 - (b) where the dog was born before 30th November 1991 and is subject to the prohibition in section 1 (3) above, that there is a good reason why the dog has not been exempted from that prohibition.
- s.4(1B) - for the purposes of subsection (1A)(a), when deciding whether a dog would constitute a danger to public safety, the court—
- (a) must consider—
 - (i) the temperament of the dog and its past behaviour, and
 - (ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog, and
 - (b) may consider any other relevant circumstances.

Note: The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 (SI 2015/138) replaced The Dangerous Dogs Compensation and Exemption Schemes Order 1991 (1991 Order) on 3 March 2015. The 2015 Order sets down the new exemption scheme and interim exemption scheme, and provisions for substituting a person in charge of an exempted dog.

¹⁶⁹⁰ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁹¹ Commencement: 12 August 1991, SI 1991/1742 art.3.

Appeals

DDA 1991 s.4¹⁶⁹²: Destruction and disqualification orders

- s.4(2) - where a court makes an order under subsection (1)(a) above for the destruction of a dog owned by a person other than the offender, the owner may appeal to the Crown Court against the order.

Order automatically suspended

DDA 1991 s.4¹⁶⁹³: Destruction and disqualification orders

- s.4(3) - a dog shall not be destroyed pursuant to an order under subsection (1)(a) above—
- (a) until the end of the period for giving notice of appeal against the conviction or, against the order; and
 - (b) if notice of appeal is given within that period, until the appeal is determined or withdrawn,
- unless the offender and, in a case to which subsection (2) above applies, the owner of the dog give notice to the court that made the order that there is to be no appeal.

Ancillary powers when ordering destruction

DDA 1991 s.4¹⁶⁹⁴: Destruction and disqualification orders

- s.4(4) - where a court makes an order under subsection (1)(a) above it may—
- (a) appoint a person to undertake the destruction of the dog and require any person having custody of it to deliver it up for that purpose; and
 - (b) order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying the dog and of keeping it pending its destruction.

An order to pay expenses has the same status as a fine

DDA 1991 s.4¹⁶⁹⁵: Destruction and disqualification orders

- s.4(5) - any sum ordered to be paid under subsection (4)(b) above shall be treated for the purposes of enforcement as if it were a fine imposed on conviction.

¹⁶⁹² Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁹³ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁹⁴ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁹⁵ Commencement: 12 August 1991, SI 1991/1742 art.3.

Determining whether to make a destruction order or a contingent destruction order

R. v Flack [2008] EWCA Crim 204; [2010] 2 Cr. App. R. (S.) 70 (p.395)

The relevant principles that can be made in respect of a dog whose owner has been convicted under s.3(1) of the 1991 Act of failing to keep a dog under control in a public place are that:

- (1) The court is empowered under s.4(1) of the 1991 Act to order the destruction of the dog.
- (2) Nothing in that provision shall require the court to order destruction if the court is satisfied that the dog would not constitute a danger to public safety: s.4(1)(a) of the 1991 Act.
- (3) The court should ordinarily consider, before ordering immediate destruction, whether to exercise the power under s.4(a)(4) of the 1991 Act to order that, unless the owner of the dog keeps it under proper control, the dog shall be destroyed (“a suspended order of destruction”).
- (4) A suspended order of destruction under that provision may specify the measures to be taken by the owner for keeping the dog under control whether by muzzling, keeping it on a lead, or excluding it from a specified place or otherwise: see s.4(a)(5) of the 1991 Act.
- (5) A court should not order destruction if satisfied that the imposition of such a condition would mean the dog would not constitute a danger to public safety.
- (6) In deciding what order to make, the court must consider all the relevant circumstances which include the dog's history of aggressive behaviour and the owner's history of controlling the dog concerned in order to determine what order should be made. (Silber J, at [11])

Terminating the disqualification

DDA 1991 s.4¹⁶⁹⁶: Destruction and disqualification orders

- s.4(6) - any person who is disqualified for having custody of a dog by virtue of an order under subsection (1)(b) above may, at any time after the end of the period of one year beginning with the date of the order, apply to the court that made it (or a magistrates' court acting in the same local justice area as that court) for a direction terminating the disqualification.

¹⁶⁹⁶ Commencement: 12 August 1991, SI 1991/1742 art.3.

Power to dispose of the application to terminate the disqualification

DDA 1991 s.4¹⁶⁹⁷: Destruction and disqualification orders

- s.4(7) - on an application under subsection (6) above the court may—
- (a) having regard to the applicant's character, his conduct since the disqualification was imposed and any other circumstances of the case, grant or refuse the application; and
 - (b) order the applicant to pay all or any part of the costs of the application;
- and where an application in respect of an order is refused no further application in respect of that order shall be entertained if made before the end of the period of one year beginning with the date of the refusal.

3.8.3.2. Breach

DDA 1991 s.4¹⁶⁹⁸: Destruction and disqualification orders

- s.4(8) - any person who—
- (a) has custody of a dog in contravention of an order under subsection (1)(b) above; or
 - (b) fails to comply with a requirement imposed on him under subsection (4)(a) above,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

3.8.3.3. Stand-alone orders

Destruction order

DDA 1991 s.4B¹⁶⁹⁹: Destruction orders otherwise than on a conviction

- s.4B(1) - where a dog is seized under section 5(1) or (2) below or in exercise of a power of seizure conferred by any other enactment and it appears to a justice of the peace, or in Scotland a justice of the peace or sheriff—
- (a) that no person has been or is to be prosecuted for an offence under this Act or an order under section 2 above in respect of that dog (whether because the owner cannot be found or for any other reason); or
 - (b) that the dog cannot be released into the custody or possession of its owner without the owner contravening the prohibition in section 1(3) above,
- he may order the destruction of the dog and, subject to subsection (2) below, shall do so if it is one to which section 1 above applies.

¹⁶⁹⁷ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁹⁸ Commencement: 12 August 1991, SI 1991/1742 art.3.

¹⁶⁹⁹ Commencement: 8 June 1997, DD(A)A 1997 s.3(1), SI 1997/1151 art.2.

- s.4B(2) - nothing in subsection (1)(b) above shall require the justice or sheriff to order the destruction of a dog if he is satisfied—
- (a) that the dog would not constitute a danger to public safety; and
 - (b) where the dog was born before 30th November 1991 and is subject to the prohibition in section 1(3) above, that there is a good reason why the dog has not been exempted from that prohibition.
- s.4B(2A) - for the purposes of subsection (2)(a), when deciding whether a dog would constitute a danger to public safety, the justice or sheriff—
- (a) must consider—
 - (i) the temperament of the dog and its past behaviour, and
 - (ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog, and
 - (b) may consider any other relevant circumstances.

3.8.4. Dogs: Contingent destruction orders

3.8.4.1. Stand-alone orders

Destruction order

DDA 1991 s.4B¹⁷⁰⁰: Destruction orders otherwise than on a conviction

- s.4B(1) - where a dog is seized under section 5(1) or (2) below or in exercise of a power of seizure conferred by any other enactment and it appears to a justice of the peace, or in Scotland a justice of the peace or sheriff—
- (a) that no person has been or is to be prosecuted for an offence under this Act or an order under section 2 above in respect of that dog (whether because the owner cannot be found or for any other reason); or
 - (b) that the dog cannot be released into the custody or possession of its owner without the owner contravening the prohibition in section 1(3) above,
- he may order the destruction of the dog and, subject to subsection (2) below, shall do so if it is one to which section 1 above applies.
- s.4B(2) - nothing in subsection (1)(b) above shall require the justice or sheriff to order the destruction of a dog if he is satisfied—
- (a) that the dog would not constitute a danger to public safety; and
 - (b) where the dog was born before 30th November 1991 and is subject to the prohibition in section 1(3) above, that there is a good reason why the dog has not been exempted from that prohibition.
- s.4B(2A) - for the purposes of subsection (2)(a), when deciding whether a dog would constitute a danger to public safety, the justice or sheriff—
- (a) must consider—
 - (i) the temperament of the dog and its past behaviour, and
 - (ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog, and
 - (b) may consider any other relevant circumstances.

Contingent destruction order

DDA 1991 s.4B¹⁷⁰¹: Destruction orders otherwise than on a conviction

- s.4B(3) - where in a case falling within subsection (1)(b) above the justice or sheriff does not order the destruction of the dog, he shall order that, unless the dog is exempted from the prohibition in section 1(3) above within the requisite period, the dog shall be destroyed.
- s.4B(4) - Subsections (2) to (4) of section 4 above shall apply in relation to an order under subsection (1)(b) or (3) above as they apply in relation to an order under subsection (1)(a) of that section.

¹⁷⁰⁰ Commencement: 8 June 1997, DD(A)A 1997 s.3(1), SI 1997/1151 art.2.

¹⁷⁰¹ Commencement: 8 June 1997, DD(A)A 1997 s.3(1), SI 1997/1151 art.2.

“Requisite period” etc.

DDA 1991 s.4B¹⁷⁰²: Destruction orders otherwise than on a conviction

s.4B(5) - Subsections (2) and (3) of section 4A above shall apply in relation to an order under subsection (3) above as they apply in relation to an order under subsection (1) of that section, except that the reference to the court in subsection (2) of that section shall be construed as a reference to the justice or sheriff.

Note: See R. (Ali) v Chief Constable of Merseyside [2014] EWHC 4772 (Admin): Where the court made a contingent destruction order in respect of a prohibited dog and the owner complied with the contingency by obtaining an exemption from the prohibition in the Dangerous Dogs Act 1991 s.1(3) within the requisite period, the police could not, as they had in the instant cases, summarily destroy the dogs because they believed that the exemption had ceased to exist. Where that was the case, the police would have to apply to the court for a destruction order.

3.8.4.2. Post-conviction orders

Mandatory order

DDA 1991 s.4A¹⁷⁰³: Contingent destruction orders

s.4A(1) - where:

- (a) a person is convicted of an offence under section 1 above or an aggravated offence under section 3(1) above;
- (b) the court does not order the destruction of the dog under section 4(1)(a) above; and
- (c) in the case of an offence under section 1 above, the dog is subject to the prohibition in section 1(3) above.

the court shall order that, unless the dog is exempted from that prohibition within the requisite period, the dog shall be destroyed.

Note: The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 (SI 2015/138) replaced The Dangerous Dogs Compensation and Exemption Schemes Order 1991 (1991 Order) on 3 March 2015. The 2015 Order sets down the new exemption scheme and interim exemption scheme, and provisions for substituting a person in charge of an exempted dog.

Keeping dogs under proper control: Discretionary order

DDA 1991 s.4A¹⁷⁰⁴: Contingent destruction orders

s.4A(4) - where a person is convicted of an offence under section 3(1) above, the court may order that, unless the owner of the dog keeps it under proper control, the dog shall be destroyed.

¹⁷⁰² Commencement: 8 June 1997, DD(A)A 1997 s.3(1), SI 1997/1151 art.2.

¹⁷⁰³ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷⁰⁴ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

Power to extend the period

DDA 1991 s.4A¹⁷⁰⁵: Contingent destruction orders

s.4A(2) - where an order is made under subsection (1) above in respect of a dog, and the dog is not exempted from the prohibition in section 1(3) above within the requisite period, the court may extend that period.

The “requisite period”

DDA 1991 s.4A¹⁷⁰⁶: Contingent destruction orders

s.4A(3) - subject to subsection (2) above, the requisite period for the purposes of such an order is the period of two months beginning with the date of the order.

The contents of the order

DDA 1991 s.4A¹⁷⁰⁷: Contingent destruction orders

s.4A(5) - an order under subsection (4) above—

- (a) may specify the measures to be taken for keeping the dog under proper control, whether by muzzling, keeping on a lead, excluding it from specified places or otherwise; and
- (b) if it appears to the court that the dog is a male and would be less dangerous if neutered, may require it to be neutered.

Ancillary powers when ordering destruction

DDA 1991 s.4A¹⁷⁰⁸: Contingent destruction orders

s.4A(6) - Subsections (2) to (4) of section 4 above shall apply in relation to an order under subsection (1) or (4) above as they apply in relation to an order under subsection (1)(a) of that section.

DDA 1991 s.4¹⁷⁰⁹: Destruction and disqualification orders

s.4(4) - where a court makes an order under subsection (1)(a) above it may:

- (a) appoint a person to undertake the destruction of the dog and require any person having custody of it to deliver it up for that purpose; and
- (b) order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying the dog and of keeping it pending its destruction.

¹⁷⁰⁵ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷⁰⁶ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷⁰⁷ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷⁰⁸ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷⁰⁹ Commencement: 12 August 1991, SI 1991/1742 art.3.

Determining whether to make a destruction order or a contingent destruction order

R. v Flack [2008] EWCA Crim 204; [2010] 2 Cr. App. R. (S.) 70 (p.395)

The relevant principles that can be made in respect of a dog whose owner has been convicted under s.3(1) of the 1991 Act of failing to keep a dog under control in a public place are that:

- (1) The court is empowered under s.4(1) of the 1991 Act to order the destruction of the dog.
- (2) Nothing in that provision shall require the court to order destruction if the court is satisfied that the dog would not constitute a danger to public safety: s.4(1)(a) of the 1991 Act.
- (3) The court should ordinarily consider, before ordering immediate destruction, whether to exercise the power under s.4(a)(4) of the 1991 Act to order that, unless the owner of the dog keeps it under proper control, the dog shall be destroyed (“a suspended order of destruction”).
- (4) A suspended order of destruction under that provision may specify the measures to be taken by the owner for keeping the dog under control whether by muzzling, keeping it on a lead, or excluding it from a specified place or otherwise: see s.4(a)(5) of the 1991 Act.
- (5) A court should not order destruction if satisfied that the imposition of such a condition would mean the dog would not constitute a danger to public safety.
- (6) In deciding what order to make, the court must consider all the relevant circumstances which include the dog's history of aggressive behaviour and the owner's history of controlling the dog concerned in order to determine what order should be made. (Silber J, at [11])

Appeals

DDA 1991 s.4A¹⁷¹⁰: Contingent destruction orders

s.4A(6) - Subsections (2) to (4) of section 4 above shall apply in relation to an order under subsection (1) or (4) above as they apply in relation to an order under subsection (1)(a) of that section.

DDA 1991 s.4¹⁷¹¹: Destruction and disqualification orders

s.4(2) - where a court makes an order under subsection (1)(a) above for the destruction of a dog owned by a person other than the offender, the owner may appeal to the Crown Court against the order.

¹⁷¹⁰ Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷¹¹ Commencement: 12 August 1991, SI 1991/1742 art.3.

Orders suspended pending appeal

DDA 1991 s.4A¹⁷¹²: Contingent destruction orders

s.4A(6) - Subsections (2) to (4) of section 4 above shall apply in relation to an order under subsection (1) or (4) above as they apply in relation to an order under subsection (1)(a) of that section.

DDA 1991 s.4¹⁷¹³: Destruction and disqualification orders

s.4(3) - a dog shall not be destroyed pursuant to an order under subsection (1)(a) above—

- (a) until the end of the period for giving notice of appeal against the conviction or, against the order; and
- (b) if notice of appeal is given within that period, until the appeal is determined or withdrawn,

unless the offender and, in a case to which subsection (2) above applies, the owner of the dog give notice to the court that made the order that there is to be no appeal.

¹⁷¹² Commencement: 8 June 1997, as inserted by DD(A)A 1997 s.2, SI 1997/1151 art.2.

¹⁷¹³ Commencement: 12 August 1991, SI 1991/1742 art.3.

3.8.5. Payment of costs incurred in keeping the animal

AWA 2006 s.39¹⁷¹⁴: Reimbursement of expenses relating to animals involved in fighting offences

- s.39(1) - the court by or before which a person is convicted of an offence under section 8(1) or (2) may order the offender or another person to reimburse any expenses incurred by the police in connection with the keeping of an animal in relation to which the offence was committed.
- s.39(2) - in subsection (1), the reference to an animal in relation to which the offence was committed includes an animal which took part in a fight in relation to which the offence was committed.

¹⁷¹⁴ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.6. Forfeiture of equipment

Power to order

AWA 2006 s.40¹⁷¹⁵: Forfeiture of equipment used in offences

- s.40(1) - where a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7 and 8, the court by or before which he is convicted may order any qualifying item which is shown to the satisfaction of the court to relate to the offence to be—
- (a) forfeited, and
 - (b) destroyed or dealt with in such manner as may be specified in the order.

“Qualifying item”

AWA 2006 s.40¹⁷¹⁶: Forfeiture of equipment used in offences

- s.40(2) - the reference in subsection (1) to any qualifying item is—
- (a) in the case of a conviction for an offence under section 4, to anything designed or adapted for causing suffering to an animal;
 - (b) in the case of a conviction for an offence under section 5, to anything designed or adapted for carrying out a prohibited procedure on an animal;
 - (c) in the case of a conviction for an offence under section 6(1) or (2), to anything designed or adapted for removing the whole or any part of a dog's tail;
 - (d) in the case of a conviction for an offence under section 7, to anything designed or adapted for administering any drug or substance to an animal;
 - (e) in the case of a conviction for an offence under section 8(1) or (2), to anything designed or adapted for use in connection with an animal fight;
 - (f) in the case of a conviction for an offence under section 8(3), to a video recording of an animal fight, including anything on or in which the recording is kept.

Owner must be given opportunity to make representations

AWA 2006 s.40¹⁷¹⁷: Forfeiture of equipment used in offences

- s.40(3) - the court shall not order anything to be forfeited under subsection (1) if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless he has been given an opportunity to show cause why the order should not be made.

¹⁷¹⁵ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷¹⁶ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷¹⁷ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

Interpretation

AWA 2006 s.40¹⁷¹⁸: Forfeiture of equipment used in offences

s.40(4) - an expression used in any of paragraphs (a) to (f) of subsection (2) has the same meaning as in the provision referred to in that paragraph.

¹⁷¹⁸ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.7. Appeals

Owner of the animal may appeal

AWA 2006 s.37¹⁷¹⁹: Destruction in the interests of the animal

- s.37(4) - where a court makes an order under subsection (1), each of the offender and, if different, the owner of the animal may—
- (a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;
 - (b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.
- s.37(5) - subsection (4) does not apply if the court by which the order is made directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

AWA 2006 s.38¹⁷²⁰: Destruction of animals involved in fighting offences

- s.38(4) - where a court makes an order under subsection (1) in relation to an animal which is owned by a person other than the offender, that person may—
- (a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;
 - (b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.

Orders suspended until time limit for appeals has expired or appeal concluded

AWA 2006 s.41¹⁷²¹: Orders under section 33, 35, 37, 38 or 40: pending appeals

- s.41(1) - nothing may be done under an order under section 33, 35, 37 or 38 with respect to an animal or an order under section 40 unless—
- (a) the period for giving notice of appeal against the order has expired,
 - (b) the period for giving notice of appeal against the conviction on which the order was made has expired, and
 - (c) if the order or conviction is the subject of an appeal, the appeal has been determined or withdrawn.

¹⁷¹⁹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²⁰ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²¹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

No suspension where court orders destruction not to be delayed

AWA 2006 s.41¹⁷²²: Orders under section 33, 35, 37, 38 or 40: pending appeals

s.41(2) - subsection (1) does not apply to an order under section 37(1) if the order is the subject of a direction under subsection (5) of that section.

Effect of suspension

AWA 2006 s.41¹⁷²³: Orders under section 33, 35, 37, 38 or 40: pending appeals

s.41(3) - where the effect of an order is suspended under subsection (1)–

- (a) no requirement imposed or directions given in connection with the order shall have effect, but
- (b) the court may give directions about how any animal to which the order applies is to be dealt with during the suspension.

s.41(4) - directions under subsection (3)(b) may, in particular–

- (a) authorise the animal to be taken into possession;
- (b) authorise the removal of the animal to a place of safety;
- (c) authorise the animal to be cared for either on the premises where it was being kept when it was taken into possession or at some other place;
- (d) appoint a person to carry out, or arrange for the carrying out, of the directions;
- (e) require any person who has possession of the animal to deliver it up for the purposes of the directions;
- (f) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the directions;
- (g) provide for the recovery of any expenses in relation to removal or care of the animal which are incurred in carrying out the directions.

Recovery of expenses

AWA 2006 s.41¹⁷²⁴: Orders under section 33, 35, 37, 38 or 40: pending appeals

s.41(5) - any expenses a person is directed to pay under subsection (4)(g) shall be recoverable summarily as a civil debt.

¹⁷²² Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²³ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²⁴ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

Breach

AWA 2006 s.41¹⁷²⁵: Orders under section 33, 35, 37, 38 or 40: pending appeals

s.41(7) - failure to comply with subsection (6) is an offence.

¹⁷²⁵ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.8. Termination of orders

Who may apply?

AWA 2006 s.43¹⁷²⁶: Termination of disqualification under section 34 or 42

s.43(1) - a person who is disqualified by virtue of an order under section 34 or 42 may apply to the appropriate court for the termination of the order.

No application until 12 months has passed from date of order

AWA 2006 s.43¹⁷²⁷: Termination of disqualification under section 34 or 42

s.43(2) - no application under subsection (1) may be made–

- (a) before the end of the period of one year beginning with the date on which the order is made,
- (b) where a previous application under that subsection has been made in relation to the same order, before the end of the period of one year beginning with the date on which the previous application was determined, or
- (c) before the end of any period specified under section 34(6), 42(3) or subsection (5) below in relation to the order.

Power of the court to dispose of the application

AWA 2006 s.43¹⁷²⁸: Termination of disqualification under section 34 or 42

s.43(3) - on an application under subsection (1), the court may–

- (a) terminate the disqualification,
- (b) vary the disqualification so as to make it less onerous, or
- (c) refuse the application.

Matters to have regard to when considering the application

AWA 2006 s.43¹⁷²⁹: Termination of disqualification under section 34 or 42

s.43(4) - when determining an application under subsection (1), the court shall have regard to the character of the applicant, his conduct since the imposition of the disqualification and any other circumstances of the case.

¹⁷²⁶ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²⁷ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²⁸ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷²⁹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

Application refused: Power to direct no further application for set period

AWA 2006 s.43¹⁷³⁰: Termination of disqualification under section 34 or 42

s.43(5) - where the court refuses an application under subsection (1), it may specify a period during which the applicant may not make a further application under that subsection in relation to the order concerned.

Costs

AWA 2006 s.43¹⁷³¹: Termination of disqualification under section 34 or 42

s.43(6) - the court may order an applicant under subsection (1) to pay all or part of the costs of the application.

Interpretation

AWA 2006 s.43¹⁷³²: Termination of disqualification under section 34 or 42

s.43(7) - in subsection (1), the reference to the appropriate court is to—

- (a) the court which made the order under section 34 or 42, or
- (b) in the case of an order made by a magistrates' court, to a magistrates' court acting for the same local justice area as that court.

¹⁷³⁰ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷³¹ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷³² Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.9. Reimbursement of expenses

Order for expenses recoverable as a civil debt

AWA 2006 s.44¹⁷³³: Orders made on conviction for reimbursement of expenses

- s.44 - where an order is made under section 33(4)(e), 36(1)(e), 37(3)(e), 38(3)(e) or 39(1), the expenses that are required by the order to be reimbursed shall not be regarded for the purposes of the Magistrates' Courts Act 1980 (c. 43) as a sum adjudged to be paid by a summary conviction, but shall be recoverable summarily as a civil debt.

Right of appeal for non-offenders

AWA 2006 s.45¹⁷³⁴: Orders for reimbursement of expenses: right of appeal for non-offenders

- s.45(1) - where a court makes an order to which this section applies, the person against whom the order is made may–
- (a) in the case of an order made by a magistrates' court, appeal against the order to the Crown Court;
 - (b) in the case of an order made by the Crown Court, appeal against the order to the Court of Appeal.
- s.45(2) - this section applies to–
- (a) an order under section 36(1)(e) against a person other than the person subject to disqualification, and
 - (b) an order under section 37(3)(e), 38(3)(e) or 39(1) against a person other than the offender.

¹⁷³³ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷³⁴ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

3.8.10. Licences

Power to order disqualification from holding a licence or cancellation of licence held

AWA 2006 s.42¹⁷³⁵: Orders with respect to licences

- s.42(1) - if a person is convicted of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9, 11 and 13(6), the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way—
- (a) make an order cancelling any licence held by him;
 - (b) make an order disqualifying him, for such period as it thinks fit, from holding a licence.

Extent of the order

AWA 2006 s.42¹⁷³⁶: Orders with respect to licences

- s.42(2) - disqualification under subsection (1)(b) may be imposed in relation to licences generally or in relation to licences of one or more kinds.

Termination of the order

AWA 2006 s.42¹⁷³⁷: Orders with respect to licences

- s.42(3) - the court by which an order under subsection (1)(b) is made may specify a period during which the offender may not make an application under section 43(1) for termination of the order.

Order suspended pending appeal

AWA 2006 s.42¹⁷³⁸: Orders with respect to licences

- s.42(4) - the court by which an order under subsection (1) is made may suspend the operation of the order pending an appeal.

¹⁷³⁵ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷³⁶ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷³⁷ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).

¹⁷³⁸ Commencement: England, in force 6 April 2007, SI 2007/499 art.2(2)(g). Wales, in force 27 March 2007, SI 2007/1030 art.2(1)(e).