



Farm & Food Care Ontario Backgrounder

Updated July 2017

You were asking about... Entry and Enforcement Powers of the Ontario SPCA

(as provided for under the *Ontario Society for the Prevention of Cruelty to Animals Act* or "*Ontario SPCA Act*," RSO 1990, revised 2008 and in force as of March 1, 2009)

Protecting animals since 1873, the Ontario Society for the Prevention of Cruelty to Animals (Ontario SPCA) is a non-profit charitable organization with a province-wide network of 50 plus community SPCAs and Humane Societies.

The Ontario SPCA's mission is to facilitate and provide for province-wide leadership on matters relating to the prevention of cruelty to animals and the promotion of animal welfare. The Ontario SPCA is one of the largest animal welfare organizations in the country, providing care and shelter for tens of thousands of animals every year. Visit www.ontariospca.ca to learn more.

Here are some answers to commonly asked questions about the Ontario SPCA regarding entry and enforcement. Changes to the Ontario SPCA Act were passed by the Ontario Legislature in November 2008 and the new law came into force March 1, 2009.

Hit "Ctrl" and click on any of the following titles to go directly to that section.

[AUTHORITY TO ENTER PROPERTY](#)

[ORDERS](#)

[THE ANIMAL CARE REVIEW BOARD \(ACRB\)](#)

[PROVISION OF FOOD, CARE OR TREATMENT](#)

[REMOVALS](#)

[DESTRUCTION OF AN ANIMAL](#)

[COSTS INCURRED](#)

[CHARGES](#)

[STANDARDS OF CARE](#)

[EXCEPTIONS FOR AGRICULTURAL ACTIVITIES](#)

[INVESTIGATORS' IDENTIFICATION](#)

[BIOSECURITY](#)

[OTHER AUTHORITIES](#)[AUTHORITY TO ENTER PROPERTY](#)****

OSPCA inspectors and agents have had some form of warrantless entry to property and the ability to apply for search warrants for many years. Currently, the Ontario SPCA Act authorizes entry to Inspectors and Agents:

1. Where animals are kept for exhibit, entertainment, boarding, hire or sale, to determine if the Standards of Care are being complied with;
2. To check compliance of an Ontario SPCA Order (subsection 13(6));
3. If they have reasonable grounds to believe that an animal is in immediate distress;
4. Where permission is granted to enter;
5. If they have a search warrant signed by a justice of the peace or provincial court judge.

* Items 1 through 3 do not apply to a dwelling house.

* For the purposes of number 3 – Immediate distress is defined in the OSPCA Act as distress that requires immediate intervention in order to alleviate suffering or to preserve life.

* For item 5, a search warrant may be granted to ensure that the Standards of Care are being complied with (section 11) or to search for animals in distress (section 12).

The Act allows the investigator to take a veterinarian or any other person(s) as accompaniment that the officer considers advisable. Ontario SPCA policy is that investigators executing a search warrant will take the local police with them, if available, to ensure that no breach of the peace occurs.

ORDERS

Ontario SPCA Inspectors/Agents have the authority to issue written Orders outlining in detail and with a specified time frame, actions that must be taken by the owner/custodian that the Inspector/Agent believes necessary to relieve an animal's distress. This could include an examination by a veterinarian at the expense of the owner/custodian. Orders must be served on the person or sent by registered mail, fax, electronic mail, or other prescribed methods, to the owner/custodian's last known address.

Where an Order is already in force, an Inspector/Agent may enter any building or place (excluding dwellings) where the animal is located to determine compliance. If, in the opinion of the Inspector/Agent, the Order has been fully complied with, the Inspector/Agent shall revoke the order in writing. Orders may also be modified by the Inspector/Agent.

THE ANIMAL CARE REVIEW BOARD (ACRB)

Orders and/or animal removals may be appealed in writing by the owner/custodian to the Animal Care Review Board (ACRB) within **five business days**. (*Business days are ones in which the office in question is open to conduct business, typically Monday to Friday, not including holidays.*)

Contact information/instructions appear on the Order or removal forms. The ACRB does NOT rule on guilt or innocence. The ACRB may determine whether the animal was in distress and if the Ontario SPCA acted within the terms of the Act and, subsequently, may uphold, revoke or modify the actions taken by the Ontario SPCA. The ACRB may also make an Order respecting the cost of complying with an Order and/or providing the animal with food, care or treatment.

A new provision in the OSPCA Act sets out that if a charge has been laid and a justice of the peace or a judge has granted a special order for the Ontario SPCA to keep the animal pending the outcome of those charges, that matter can not be appealed to the ACRB.

PROVISION OF FOOD, CARE OR TREATMENT

If an investigator finds an animal in distress he/she may provide food, care or treatment necessary to relieve stress.

REMOVALS

An investigator may remove an animal found in distress for the purpose of providing it with food, care or treatment to relieve its distress where:

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| 1. A veterinarian has examined the animal and has advised the Inspector/Agent in writing to do so; |
| 2. The Inspector/Agent deems it necessary and the owner/custodian can not be found promptly; |
| 3. Orders in force have not been complied with. |

DESTRUCTION OF AN ANIMAL

Inspectors/Agents may destroy animal(s) if:

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| 1. The owner/custodian grants permission (signs a written release form), or |
| 2. A veterinarian has examined the animal(s) and advises the Inspector/Agent in writing that destruction is the most humane course of action. The Inspector/Agent must notify the owner/custodian in writing if an animal is removed or destroyed. The owner/custodian has the right to call in a veterinarian (at their expense) to provide a written assessment. |

COSTS INCURRED

The owner/custodian is liable for the expenses incurred by the Ontario SPCA if an animal is removed or provided with care. The owner/custodian has **five business days** after receiving a Statement of Account to rectify the situation that caused the distress and to pay the outstanding account; otherwise the Ontario SPCA may sell the animal(s) to recover expenses and hold the balance in trust for the owner.

CHARGES

Ontario SPCA Inspectors and Agents and/or the police have the authority to lay charges under the Ontario SPCA Act, the federal Criminal Code, or any other Act or law in Ontario pertaining to the welfare of animals.

STANDARDS OF CARE: Animal owners or custodians are required to comply with the Standards of Care requirements listed under Regulation 60/09 of the Ontario SPCA Act and there is a provincial offence for failing to do so. In addition, there are offences for causing or permitting an animal to be in distress and other offences.

EXCEPTIONS FOR AGRICULTURAL ACTIVITIES

There are agricultural exceptions to the requirements for complying with the Standards of Care and to the offences for causing or permitting distress to animals. Specifically, an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry is exempted from both these new provisions of the OSPCA Act.

There are other exceptions made to certain provisions of the Act for activities permitted by the *Fish and Wildlife Conservation Act*, and for veterinary-related activities.

INVESTIGATORS' IDENTIFICATION

Inspectors and Agents carry photo ID, and must present it upon request. A business card is not official Ontario SPCA identification. Inspectors and Agents normally announce their presence and knock (i.e. try to locate the owner or custodian by going to the house). If the owner/custodian is absent at the time of the visit, Inspectors/Agents may leave some indication that they were there (i.e. business card or a 'while you were out' notice).

BIOSECURITY

Inspectors/Agents follow Ontario Ministry of Agriculture, Food and Rural Affairs biosecurity protocols for farming operations and provide the Ontario SPCA staff with additional training in this regard.

OTHER AUTHORITIES

Ontario SPCA investigators have additional enforcement and entry powers under other legislation including the *Dog Owners' Liability Act*, and the *Criminal Code of Canada*. Some Ontario SPCA Inspectors and Agents have additional authority under the *Livestock Community Sales Act*, and/or animal-related municipal bylaws.

**For more specific information, contact the Ontario SPCA directly. www.ontariospca.ca
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