

## SCHEDULE 1

Regulation 2

### Licensable activities

#### PART 1

##### Selling animals as pets

1. Selling animals as pets (or with the expectation of their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.

2. The activity described in paragraph 1 does not include selling or keeping animals in the course of—

- (a) an aquaculture production business authorised under regulation 5(1) of the Aquatic Animal Health (Scotland) Regulations 2009<sup>(1)</sup>,
- (b) the activity described in paragraph 8 (operating an animal welfare establishment),
- (c) the activity described in paragraph 14 (breeding dogs),
- (d) the activity described in paragraph 17 (breeding cats), or
- (e) the activity described in paragraph 20 (breeding rabbits).

3. The circumstances which a licensing authority must take into account in determining whether a person sells or keeps animals in the course of a business for the purposes of paragraph 1 include—

- (a) whether the person engages in such conduct with a view to making a profit,
- (b) whether the person earns any commission, fee or other consideration from such conduct,
- (c) the frequency of any sales of animals as pets (or with the expectation of their being later resold as pets), and
- (d) the number of any animals kept with a view to their being so sold or resold.

#### PART 2

##### Engaging in animal rehoming activities (other than in the course of operating an animal welfare establishment)

4. Subject to paragraphs 6 and 7, engaging in animal rehoming activities.

5. For the purposes of these Regulations, “engaging in animal rehoming activities” means supplying an animal to a person in Scotland to be kept as a pet, regardless of the country of origin of the animal, provided that—

- (a) the animal is not a fish,
- (b) the animal was not bred by the supplier,
- (c) the person being supplied takes receipt of the animal in Scotland from the supplier of the animal or a person delivering the animal on behalf of the supplier,
- (d) the supply takes place during a 12 month period in which at least 4 other such animals are supplied by the supplier to persons in Scotland to be kept as pets.

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(1) S.S.I. 2009/85.

*Status: This is the original version (as it was originally made).*

6. The activity described in paragraph 4 (engaging in animal rehoming activities) does not include—

- (a) the activity described in paragraph 1 (selling animals as pets),
- (b) the activity described in paragraph 8 (operating an animal welfare establishment).

7. The activity described in paragraph 4 (engaging in animal rehoming activities) is not carried on solely by virtue of delivering an animal on behalf of a supplier.

## PART 3

### Operating an animal welfare establishment

8. Subject to paragraph 10, operating an animal welfare establishment.

9. In this Part of schedule 1, “animal welfare establishment” means a place, or places, in Scotland where—

- (a) relevant animals that have been abandoned or otherwise separated from their keeper including as a result of a relevant relinquishment or a relevant seizure, or
- (b) sick, injured or captured relevant animals that were previously living in a wild state,

are kept for their care.

10. The activity described in paragraph 8 (operating an animal welfare establishment) is only carried on by a person if at least—

- (a) 8 relevant animals, except for any animal under the age of 4 months if it was born within the animal welfare establishment or received into the establishment together with its mother, or
- (b) 5 dogs or equines,

are kept at the same time by that person at the animal welfare establishment for their care.

11. A person does not keep an animal for its care for the purposes of regulations 9 and 10, by reason of—

- (a) keeping an animal as a pet,
- (b) keeping an animal in premises used for the care or treatment of animals by a person in the capacity of a veterinary surgeon,
- (c) if the person is a local authority, keeping an animal,
- (d) keeping an animal in the course of farming activities or for its use in the course of a business,
- (e) carrying on the activity that requires a licence under section 1(1) of the Animal Boarding Establishments Act 1963<sup>(2)</sup>,
- (f) keeping or training an animal solely for military, police or sporting purposes,
- (g) keeping or training animals solely for exhibition in the course of the provision of—
  - (i) education, or
  - (ii) entertainment to an audience,
- (h) keeping or training an assistance dog intended to be used as an assistance dog within the meaning of section 173 of the Equality Act 2010<sup>(3)</sup>,

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(2) 1963 c.43. Section 1 was amended in relation to Scotland by S.S.I. 2006/536.

(3) 2010 c.15.

- (i) keeping an animal on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981(4),
- (j) keeping an animal in a zoo within the meaning of the Zoo Licensing Act 1981(5),
- (k) keeping an animal in the course of any of the activities described in paragraphs 1, 14, 17 or 20, or
- (l) providing food or shelter to an animal which may enter and is free to leave land which the person owns or occupies.

**12.** If any relevant animal kept in an animal welfare establishment in the course of the activity described in paragraph 8 (operating an animal welfare establishment) is supplied as a pet by the person carrying out the activity to another person, such supply is considered to form part of that activity for the purposes of these Regulations.

**13.** In this Part of this schedule—

“care” includes, but is not limited to, care for the purpose of rehoming or release to the wild,

“relevant animal” means an animal which is not a fish,

“relevant relinquishment” means the voluntary relinquishment of possession or ownership of an animal for welfare reasons,

“relevant seizure” means taking into possession of an animal by a person under authority of an enactment or order of a court.

## PART 4

### Breeding dogs

**14.** Breeding three or more litters of puppies in any 12 month period.

**15.** If any dog bred or used in the course of the activity described in paragraph 14 (breeding dogs) is sold or otherwise supplied to another person by the person carrying out the activity, such supply is considered to form part of that activity for the purposes of these Regulations.

**16.** The activity described in paragraph 14 (breeding dogs) does not include—

- (a) keeping a dog on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981, or
- (b) breeding only assistance dogs or dogs intended to be used as assistance dogs within the meaning of section 173 of the Equality Act 2010.

## PART 5

### Breeding cats

**17.** Breeding three or more litters of kittens in any 12 month period.

**18.** If any cat bred or used in the course of the activity described in paragraph 17 (breeding cats) is sold or otherwise supplied to another person by the person carrying out the activity, such supply is considered to form part of that activity for the purposes of these Regulations.

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(4) 1981 c.22.

(5) 1981 c.37.

**Status:** This is the original version (as it was originally made).

**19.** The activity described in paragraph 17 (breeding cats) does not include keeping a cat on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981.

## PART 6

### Breeding rabbits

**20.** Breeding six or more litters of kits in any 12 month period.

**21.** If any rabbit bred or used in the course of the activity described in paragraph 20 (breeding rabbits) is sold or otherwise supplied to another person by the person carrying out the activity, such supply is considered to form part of that activity for the purposes of these Regulations.

**22.** The activity described in paragraph 20 (breeding rabbits) does not include—

- (a) keeping a rabbit on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981, or
- (b) breeding any rabbit for the purpose of—
  - (i) its consumption (including breeding a rabbit to sell it for the purpose of its consumption), or
  - (ii) its use, including breeding other rabbits, in the course of meat production.