

EXECUTIVE NOTE

DRAFT : THE LICENSING OF ANIMAL DEALERS (YOUNG CATS AND DOGS) (SCOTLAND) REGULATIONS 2008

The above instrument was made in exercise of the powers conferred by sections 27(1), (3), (4), (5), (6), (7) and (8) and 51(2) of the Animal Health and Welfare (Scotland) Act 2006. The Instrument is subject to affirmative resolution procedure.

Policy Objectives

The purpose of this instrument is to address and regulate serious animal welfare issues concerning the purchase, transportation and sale of puppies and kittens in Scotland. There is a high demand for pedigree puppies and kittens in Scotland but, currently, there are many problems with the trade. Dealers are purchasing very young animals, without proper documentation, from unregulated puppy farms outwith Scotland and transporting them in very poor conditions. Many of these young animals are not robust enough to survive. Cramped conditions, mixing of litters and long transportation times heighten the risk of infection and parasitic infestation creating a breeding ground for disease. Other serious health and behavioural problems are also common but by the time these come to light the animals have usually been sold to the public, many of these sales taking place illegally on the street or at car boot sales. Complaints regarding such animals sold by dealers have been made to the Scottish Society for the Prevention of Cruelty to Animals by members of the public. Consequently, there is a strong need for regulation in this trade.

Scope of the Regulations

The Regulations will require those who resell puppies or kittens under 84 days of age to obtain a licence from a local authority. If the pet dealer does not have premises in Scotland then they will need to obtain a licence from the City of Edinburgh Council. A licence will last for a maximum of 3 years. An exception is made where no more than two puppies or kittens are bought and sold in a 12 month period or for people who hold a pet shop licence.

It will be an offence to sell an animal under 8 weeks of age and to transport an animal younger than this unless accompanied by its mother. The licence conditions will require each animal to be given a unique identification number; a written record detailing the items listed in the schedule needs to accompany each animal; the animal must be examined by a veterinary surgeon within 24 hours of the dealer obtaining the animal; and the animals will need to be kept separate from other animals for a period of 10 days before they can be resold.

The Regulations include the power to –

- (a) make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient for the purposes of or in connection with the regulations,

(b) make different provision for different purposes or for different cases or classes of case."

Pet dealers can only sell the puppies and kittens to other licensed dealers, pet shops or licensed dog rearing establishments. To sell direct to members of the public it will be necessary for dealers to obtain a pet shop licence or a dog rearing establishment licence.

Failure to comply with the Regulations is an offence and if convicted a person would be liable to a fine of up to £2,500 (level 4 of the standard scale) and/or up to 3 months imprisonment.

Consultation

Many organisations were consulted during the preparation of this Instrument in accordance with the requirements of section 27(9) of the Animal Health and Welfare (Scotland) Act 2008. These organisations included the Pet Care Trust, pet retail stores, the Scottish Society for the Prevention of Cruelty to Animals, Advocates for Animals, Animal Concern, the Scottish Branch of the British Veterinary Association and local authorities.

Financial Effects

This instrument will have no financial effects on the Scottish Government and local authorities will recoup costs by charging a fee for licences. There will be financial implications for animal dealers but these will be comparable to other, similarly regulated businesses and are not disproportionate. A Regulatory Impact Assessment has been prepared for this instrument and this is attached.

**Scottish Government
Rural Directorate**

March 2008

THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

**THE LICENSING OF ANIMAL DEALERS (YOUNG CATS AND DOGS)
(SCOTLAND) REGULATIONS 2008**

Regulatory Impact Assessment

**Scottish Government
May 2008**

REGULATORY IMPACT ASSESSMENT (RIA)

1. Title of proposal

The Licensing of Animal Dealers (Young Cats and Dogs) (Scotland) Regulations 2008.

2. Purpose and intended effect

- **Objectives**

These Regulations, made under sections 27 of the Animal Health and Welfare (Scotland) Act 2006, will introduce a licensing scheme for dealers who have taken ownership, possession or control of young dogs and cats less than 84 days old to sell on within 60 days. The aim is to improve the conditions under which young dogs and cats are transported and sold, and considerably improve their welfare. In essence, it will regulate the trade in these animals through a licensing system operated by the local authorities.

- **Background**

The welfare provisions of the Animal Health and Welfare (Scotland) Act 2006 (the Act) modernise and bring together in one statute some 20 Acts relating to the welfare of captive and domestic animals in Scotland. They will protect from cruelty and promote the welfare of vertebrate animals which are commonly domesticated in the British Islands, or are under the control of man whether on a permanent or temporary basis, or not living in a wild state. They revise the legislation for non-farmed animals dealing with the welfare needs of the late nineteenth century which was in urgent need of revision.

The Act is largely an enabling measure. It sets out the broad fundamental principles of animal welfare and allows specific provisions to be made in secondary legislation. Regulations can be made under Section 27 of the Act to prohibit the carrying on, without a licence (or a registration), an activity involving animals for which a person is responsible. These regulations must be for the purposes of securing the welfare of animals.

- **Rationale for Government intervention**

There is a good deal of evidence which shows that there are problems with the trade of buying and reselling young dogs and cats. Dealers purchase their stock from unlicensed premises where animals can be bought for a relatively low cost and resold at a much higher price. The exact extent of the trade is not known but is thought to be highly profitable, with some dealers making hundreds of pounds from the resale of a single litter. However, the trade is not always undertaken under acceptable animal welfare conditions. There have been concerns raised about the age at which the animals are sold (some are as young as six weeks); dealers do not always have proper travel documentation (this can be dealt with elsewhere under the Welfare of Animals (Transport) Order 1997); and in many cases animals have been collected from different locations before they arrive at the dealer's premises. Animals have been found to be in a poor condition, often diseased, with the symptoms only manifesting themselves after the animal has been resold by the dealer. Furthermore, the existing legislation does not cover dealers, though it covers people who breed, rear and sell young dogs and cats. This is contained in the Breeding of Dogs Acts 1973 and 1991, the Breeding and Sale of Dogs (Welfare) Act 1999 and the Pet Animals Act 1951.

There is considerable demand for this trade to be regulated. This is evident in the responses to the consultations which have helped develop policy for the Animal Health and Welfare (Scotland) Act 2006, held in 2004 and 2005, and for Christine Grahame's Transportation and Sale of Puppies (Scotland) Bill.

3. Consultation

- **Within Government**

Consultation at official level has been ongoing throughout the drafting of the Instrument. In particular, this has been with the Office of the Solicitor to the Scottish Executive (OSSE), the State Veterinary Service (SVS), Justice Department and the Crown Office.

- **Public consultation**

A number of consultations have already taken place which have discussed the proposals outlined in the draft regulation. A full 12 week consultation was undertaken on proposals which assisted in drafting legislation which formed the basis of the Animal Health and Welfare (Scotland) Act 2006. The consultation paper, 'Proposals to Revise Existing Animal Welfare Legislation', issued on 31 March 2004, sought comments on the trade in young companion or pet animals. This consultation was widely distributed and 2,100 copies of the document were sent to a wide range of organisations and individuals. Some 13 consultation meetings were also held during the consultation period. A total of 325 written responses were received, including 99 responses specifically making comments on the proposals on the sale of young companion or pet animals. The responses to this consultation were published on 28 February 2005 on the Scottish Executive website and were also issued to responders of the consultation. These can be viewed at:

<http://www.scotland.gov.uk/Publications/2005/05/1683736/37373>.

The scope of these proposals were discussed in a further consultation paper, "Draft Animal Health and Welfare (Scotland) Bill Consultation", issued on 16 May 2005. A total of 2,245 copies of the consultation document were issued and distributed during the consultation period. A total of 116 responses were received. Some 4 consultation meetings were held during the consultation period. Responses to this consultation were publicised and distributed on 14 September 2005, using the same methods that had been used for the earlier consultation. The responses can be viewed at:

<http://www.scotland.gov.uk/Publications/2005/09/14155410/54128>.

4. Options

The two options are:

- **Option 1:** Do nothing – do not licence animal dealers under Section 27 of the Animal Health and Welfare (Scotland) Act 2006.
- **Option 2:** Licence animal dealers under Section 27 of the Animal Health and Welfare (Scotland) Act 2006 to considerably improve the welfare conditions of young cats and dogs passing through the hands of dealers.

5. Costs and Benefits

- **Sectors and groups affected**

The regulations will affect people (“dealers”) who are involved in buying and reselling young dogs and cats under the age of 84 days, and who resell these animals within 60 days of purchasing them. The breeding and sale of dogs by breeders is already governed by a range of legislation such as The Breeding of Dogs Act 1973.

- **Benefits**

- **Option 1:** No benefits. The unregulated trade of dealing in young dogs and cats will continue and this, in turn, will continue to adversely affect the welfare of these animals. The unregulated trade will also continue to have a perceived impact on the dog breeding and selling community which is regulated by existing legislation and by Kennel Club standards. These sectors believe that the dealers are negatively impacting on the reputation of their business.
- **Option 2:** This option will bring a number of benefits -
 - i. It will allow the trade in dogs and cats under 84 days of age, which are resold within 60 days of their purchase, only to be undertaken by licensed dealers who must fulfil the conditions under which they are licensed.
 - ii. It will improve the health and welfare of young dogs and cats under 84 days of age which are bought and sold by dealers.
 - iii. It will ensure that these animals are allowed to rest after they have been purchased by a dealer and that they are identified by a unique number assigned to them.
 - iv. It will ensure that the licence holder sells their stock only to other licence holders.
 - v. The veterinary examination for each animal will establish if they are healthy and fit to be sold.
 - vi. The higher standard of health and welfare will result in fewer veterinary costs for subsequent owners or keepers.
 - vii. The minimum age of sale for the dogs and cats will ensure that they are old enough to be sold without incurring welfare problems which can lead to long term welfare problems.
 - viii. It will ensure that dealers are easily identifiable by prospective purchasers and by local authorities.
 - ix. Through the licensing system, local authorities will be able to monitor the trade in young dogs and cats by dealers.

- x. The regulations will enable local authorities to more easily bring prosecutions against dealers who are selling animals in unacceptable ways, or who have failed to ensure their welfare.
- xi. The use of a record will provide comprehensive details on the history, traceability, welfare and health of the animal which will confirm that the dealer has complied with the regulations and assist in the prevention of fraud.

- **Costs**

- **Option 1**

- **Costs to animal dealers**

There will be no additional costs to animal dealers.

- **Costs to competent authorities**

There will continue to be costs faced by the competent authorities in dealing with those who illegally sell young dogs and cats.

- **Costs to purchasers of animals**

Problems for purchasers of animals associated with the welfare of dogs and cats which are purchased and resold by dealers, will continue. Some purchasers will still be faced with the prospect of having to provide a range of veterinary treatment for their newly acquired animals and others will still be out-of-pocket when animals die and dealers cannot be traced.

- **Option 2**

- **Costs to animal dealers**

There will be a range of costs to be met by animal dealers which will vary according to the facilities they have and whether or not these have to be upgraded to the standard required in the licence conditions. The standards for premises will be based on the standards of existing licensed dog rearing and breeding establishments, so there will be no increased accommodation costs for dealers who already have such premises. However, there will be higher costs for dealers who do not have premises and who wish to provide their own. The costs of providing premises will be the largest initial set-up cost for dealers.

Dealers will have to pay a fee for their licence. Also the cost of the physical examination of new stock by a veterinary surgeon and the cost of keeping animals for 10 days if they have premises in Scotland.

The estimated costs to a dealer would be:

ACTIVITIES TO BE UNDERTAKEN	COST PER DEALER
SET UP COSTS	
Licence cost (licenses normally run for a period of three years).	£200 - £800
Cost of providing premises which can be used for keeping animals separate	Costs will depend on whether dealers use their own premises or premises which are already licensed.
ONGOING COSTS	
Veterinary examination	£50 per litter.
Accommodation on premises for 10 days	£40 per litter of dogs for accommodation (up to 12 puppies)

- **Costs to the competent authorities**

- It is not expected that there will be any additional costs placed on the Scottish Government.
- Local authorities will incur a number of costs chiefly associated with licensing and inspection but these will be recouped by the licence fee.
- In addition, since the regulations will create a new framework for the licensing of dealers, it will also place new duties on local authorities. This will be the inspection of premises before they are licensed, issuing of the licences and enforcement of the regulations. It is not expected that these duties will add a significant burden to existing work, especially as it is believed there are only a small number of dealers operating throughout the country.
- The regulations on dealers will introduce new offences. It is not known how many cases will be brought forward for prosecution. However, it is believed that the number will be small.
- It is probable that the regulations will mean increased costs for the Scottish Society for the Prevention of Cruelty to Animals (Scottish SPCA) since more animals may be seized which would result in increased costs for transportation, accommodation and veterinary services. However, it is recognised that these costs would be incurred for the betterment of animal welfare.

- **Costs to purchasers of animals**

The young dogs and cats sold by dealers will have higher welfare standards so will be in better condition when they are sold. There will also be a fewer instances of diseases to be treated by veterinary surgeons once these animals have been sold so

purchasers will generally have lower veterinary costs. This is very relevant since some purchasers have had to pay for extensive health care after they bought an animal, or had to make provision to euthanasia it which also means a loss of the purchase price. The costs of treating an animal for a range of diseases can be high. Some treatments take months and some conditions can require treatment throughout the animal's life. Under the licensing system, the animals should be healthy.

6. Small firms impact test

The Regulations will only directly impact on dealers who trade in young cats and dogs. During the consultations in 2004 and 2005, a wide range of small businesses, small business organisations and other business organisations were consulted. These included a number of businesses that would be directly affected by proposals to amend existing legislation on the sale of young companion or pet animals. None of the responders considered that the proposals would have a disproportionate impact on small businesses.

7. Test run of business forms

The regulations will not require the completion of any formal business forms.

8. Competition assessment

These regulations will only directly affect animal dealers. They will ensure that dealers operate to consistent, satisfactory animal welfare standards which will be comparable to the standards already being adhered to by existing licensed dog breeding and rearing establishments in Scotland. This will raise the general welfare standards in the industry and will place legitimate businesses on a more equal footing for competition purposes. The set-up costs resulting from these regulations will be the same for new or potential dealers and for existing dealers.

9. Enforcement, sanctions and monitoring

As with existing Acts, Regulations and Orders relating to animal welfare, the regulations will be enforced by local authorities and the police who will have powers to inspect regulated activities. There will be criminal sanctions and offences which are laid out in regulation 17. The effectiveness of these regulations will be monitored by the local authorities who will bring any problems or issues to the attention of the Scottish Government.

10. Implementation and delivery plan

The regulations are subject to the affirmative resolution procedure so will need to be approved by Parliament. Once approved, there will be a 2-month delay before the regulations are in force to allow animals dealers to comply with the regulations.

11. Post-implementation review

As the proposals will be implemented through secondary legislation, there will be an opportunity to review, and if necessary, update the legislation. It is proposed to review the regulations 5 years after they come into force. This review will be undertaken by the Scottish Government.

12. Summary and recommendation

Based on the analysis outlined above and the analysis of the responses to the consultation the Scottish Government recommends implementing option 2.

13. Declaration and publication

I have read the Regulatory Impact Assessment and am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed

Date.....

**Richard Lochhead
Cabinet Secretary for the Environment and Rural Affairs**