
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, contain provisions implementing Council Directive 1999/22/EC relating to the keeping of wild animals in zoos (O.J. No. L 094, 9.4.1999 p.24 26) (“the Directive”). For this purpose they amend the Zoo Licensing Act 1981 (c. 37) (“the Act”) as follows.

Section 1 of the Act (licensing of zoos by local authorities) is amended to secure that the Act applies to zoos open seven days in a year in addition to zoos open on more than seven days in a year. It is also amended so that the Act applies to zoos which are not open on seven days or more but in respect of which a licence is in force (regulation 4).

A new section 1A is inserted which gives effect to the conservation measures that zoos are required to adopt by virtue of Article 3 of the Directive (regulation 5).

Section 2 (application for licence) is amended to require an applicant for a zoo licence to submit to the local authority their proposals for implementing the conservation measures at the zoo (regulation 6).

Section 4 of the Act (grant or refusal of licence) is amended to provide that before attaching any conditions to a new licence or making a significant alteration to an existing licence the authority must consult the applicant or licence holder of the conditions they propose to attach and arrange for the zoo to be inspected and consider the inspector’s report. Section 4 is also amended to provide that the local authority must refuse to grant a licence if they are not satisfied that the zoo will be able to comply with licence conditions giving effect to the conservation measures within an appropriate period (regulation 7).

The Regulations amend section 5 (periods and conditions of licence) and 16 of the Act (power to alter licences) to require appropriate conditions to be attached to all zoo licences which give effect to the conservation measures (regulations 8, 20 and 21).

Section 6 of the Act (renewal of licence) is amended to provide that the local authority must make arrangements for an inspection to be carried out and that the local authority must consider any report made pursuant to that inspection prior to extending the period of an existing licence (regulation 9).

Section 8 of the Act (Secretary of State’s list) is amended to ensure that the veterinary surgeons and practitioners and other persons on the list are competent to advise about the conservation measures (regulation 11).

The Regulations insert section 9A which introduces a requirement for a zoo to be inspected before a decision is taken about granting, refusing, renewing a licence or making a significant alteration to a licence. Inspectors making inspections in accordance with section 9A (or in circumstances described in section 9A, under section 10) must consider whether existing, and any proposed, licence conditions will be met (regulation 12).

The Regulations insert section 11A which allows a local authority to carry out in certain circumstances a special inspection of a zoo in respect of which a zoo closure direction has been made (regulation 15).

Section 13 of the Act (local authority zoos) is amended to provide for the application of the new sections 16 16G to local authority zoos (regulation 17).

Section 14 of the Act (dispensation for particular zoos) is amended to secure that exemptions from the requirements of the Act may only be granted where this is not prejudicial to the objectives

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

of the Directive, set out in Article 1 (protection of wild fauna and conservation of biodiversity) (regulation 18).

Section 15 of the Act (fees and other charges) is amended to enable an authority to recover from the zoo operator their costs under the Act as amended (regulation 19).

The Regulations also amend section 16 of the Act (power to alter licences) and insert sections 16A to 16G which give a local authority new powers to enforce licence conditions, to secure the closure of a zoo or a section of it, at which breaches of licence conditions persist and to secure the welfare of animals after the closure of a zoo or a section of it (regulations 20 and 21).

Section 16 is amended to enable an authority to alter a zoo's licence to secure permanent closure of a section of a zoo (defined in section 1(2C)) where at the end of the term of a direction under section 16A(2) requiring compliance with a licence condition requiring the conservation measures to be implemented a section of the zoo remains in breach of the licence condition.

Section 16A enables an authority to issue directions to zoo licence holders requiring them to comply with licence conditions, and to require the public to be excluded from the zoo or from a section of it for a period of time.

Section 16B gives a local authority power to make a zoo closure direction requiring the zoo to be closed and revoking its licence. They must make such a direction if a zoo has not complied with a direction under section 16A(2) to comply with a licence condition requiring the conservation measures to be implemented. They must also make a zoo closure direction where the zoo operator cannot be found or where the public are no longer admitted to the zoo on seven days or more in a year. A zoo closure direction can also be made on any of the other grounds which were previously grounds for revocation of a licence under section 17 of the Act (revocation of licence).

Section 16C gives local authorities power to secure the permanent closure of zoos operating without licences in contravention of the Act. Section 13(6) gives the Scottish Ministers power to secure the permanent closure of zoos owned by authorities which operate without a licence in contravention of the Act.

Section 16D provides for the zoos to which section 16E applies.

Section 16E requires the operator of a zoo to prepare a plan of the proposed arrangements for the future care of the animals in the zoo or for their disposal, and seek the local authority's approval of it. Arrangements must not be prejudicial to the objectives of the Directive. After the authority have approved the plan the operator must implement it under their supervision. The authority may request information from the zoo operator about the care or disposal of animals in a closed zoo. Section 11A gives the authority power to inspect closed zoos in certain circumstances. If a plan prepared under section 16E does not satisfy the authority, the authority may give directions to the zoo operator. There is a residual duty for the authority to make their own arrangements for the care or disposal of the animals kept in the zoo.

Section 16F permits authorities acting pursuant to such arrangements to sell zoo animals in certain circumstances.

Section 16G gives authorities powers to enter the premises of closed zoos to inspect animals and their accommodation, care for animals and to remove animals where they make such arrangements. Section 13(8) and (9), inserted by regulation 17, makes provision in relation to closed zoos owned by authorities.

Once the authority have signified that arrangements for the future care or disposal of the animals in a zoo have been implemented to their satisfaction, section 16D(2) provides that the Act will cease to apply to the closed zoo.

Section 17 of the Act (revocation of licence) ceases to have effect (regulation 22).

Section 18 of the Act (appeals) is amended to introduce various new rights of appeal to the Sheriff court connected with the new local authority functions introduced by the Regulations. The period for bringing an appeal is extended to 28 days (regulation 23).

Various criminal offences are inserted into section 19 of the Act (offences and penalties) including offences connected with authorities' new licence condition enforcement powers, and the new provisions to secure the welfare of animals at closed zoos (regulation 24).

Section 19A is inserted into the Act which provides that the local authority must take reasonable steps to secure that the operator of a zoo or any person appearing to them to be responsible for the zoo is notified in writing of any direction made by them under the Act. Section 19A also provides that the operator of the zoo or the person notified shall comply with a direction made under the Act (regulation 25).

A definition of “zoo closure direction” is inserted into section 21 of the Act (regulation 26).

The Regulations include transitional provision concerning the alteration of existing zoo licences, and transitory provisions for zoos without licences they also make minor or consequential amendments to the Act (regulations 27 and 28).

A Regulatory Impact Assessment has been prepared in relation to these Regulations. A copy may be obtained from the Scottish Executive Justice Department, Criminal Procedure Division, Branch 2, St Andrew’s House, Edinburgh. A copy of the transposition note in relation to the implementation of the Directive can be obtained from the same address. Copies of both these documents have been placed in the Scottish Parliament Information Centre.