
**The Legislative Reform (Dangerous
Wild Animals) (Licensing)
Order 2010**

**Accompanying Statement by the
Department for Environment, Food and
Rural Affairs**

March 2010

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ACCOMPANYING STATEMENT - AS REQUIRED UNDER SECTION 18(7) OF THE LEGISLATIVE AND REGULATORY REFORM ACT 2006 - RELATING TO THE REVISED DRAFT LEGISLATIVE REFORM (DANGEROUS WILD ANIMALS) (LICENSING) ORDER 2010

Background

1. In June of last year the draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009, seeking to amend certain provisions of the Dangerous Wild Animals Act 1976 (DWAA), was laid in both Houses of Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006 (LRRRA). That draft Order contained a number of proposals, relating to the granting of licences to keep wild animals, which were designed to reduce the level of burden imposed on both local authorities, which administer and enforce the DWAA, and on animal keepers, whilst retaining the DWAA's safeguards and other benefits. The proposals, intended to be in line with the Government's intention to deregulate where desirable and regulate with as light a touch as possible, were:

- ***to remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second-similar, licence; (Proposal 1)***
- ***to extend the period of validity of a licence from a maximum of one calendar year to two years; (Proposal 2) and***
- ***to provide that licences (other than in the case of licence renewals) will come into force immediately upon their being granted (rather than, as was previously the case, from either the date of grant or the beginning of the next following year) (Proposal 3).***

2. Under the provisions of section 15(1) of the LRRRA, the Minister recommended that the Parliamentary procedure which should apply in relation to the making of an Order pursuant to the draft Order should be the affirmative resolution procedure. This procedure was chosen because, while the proposed revisions to the DWAA were few, fairly minor and (arguably) non-controversial in nature, matters concerning animals often attract significant Parliamentary and public interest. It therefore seemed sufficient and appropriate for the draft Order to receive a degree of Parliamentary scrutiny greater than that which would be available under the negative resolution procedure.

Initial scrutiny by the House of Commons Regulatory Reform Committee

3. Further to its consideration of the draft Order, the House of Commons' Regulatory Reform Committee (RRC) published its Report on it (the Seventh Report of Session 2008-09¹), on 25 June 2009. The Report concluded:

*“Although we are unhappy about aspects of the situation as it now exists with regard to the working of the Act, we agree that overall the terms of the draft Order, which are designed to reduce burdens and make for a potentially more efficient administration, are reasonable and practical and are likely to introduce at least a modicum of improvement to the current state of affairs. Further, whilst the anticipated cost savings over four years are not vast, they will matter to the individual. **We therefore recommend that the draft Order be approved.**”*

*The Minister of State at the Department for Environment, Food and Rural Affairs has recommended that the affirmative resolution procedure should apply. **We agree that this is appropriate.**”*

The summary of the Report stated:

“[Text omitted]

...We believe that the responsibilities relating to the consultation procedures as given in section 13 of the Legislative and Regulatory Reform Act 2006 have been fulfilled.

We agree that the draft Order, if approved, would reduce a burden.

We conclude that all requisite preconditions and tests have been met.

We deprecate the seeming current high level of non-compliance with the requirements of the Dangerous Wild Animals Act 1976 and the inconsistent application of its terms by local authorities.

We recommend that the draft Order be approved.

We agree that the affirmative resolution procedure is appropriate.”

Initial scrutiny by the House of Lords Delegated Powers and Regulatory Reform Committee

4. Further to its consideration of the draft Order, the House of Lords' Delegated Powers and Regulatory Reform Committee (DPRRC), in its 11th Report of Session 2008-09², concluded:

¹ <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmdereg/795/79502.htm>

² <http://www.publications.parliament.uk/pa/ld200809/ldselect/lddelreg/135/13503.htm#a8>

“As required, DEFRA has consulted on the proposals contained in the LRO. Although there was clear support for Proposals 2 and 3, the balance of views expressed was marginally against Proposal 1. DEFRA asserts that the response to Proposal 1 was influenced by another proposal to remove certain animal welfare elements from the 1976 Act which has not been pursued in light of the negative response to it.(ED paragraphs 3.8-13, 4.5-7 and 4.14).

It is clear that the changes would reduce the burden on the local authority and on keepers of wild animals, both in terms of administration and costs. However the Committee has some concerns about the impact of the reduction of mandatory inspection requirements (Proposal 1) on maintaining necessary protections. The maintenance of necessary protections is one of the preconditions for LROs set out section 3(2)(d) of the 2006 Act.

Against the existing background of variable enforcement and non-compliance described in the ED (for example, at paragraph 4.15), Proposal 1 would remove the mandatory requirement for inspection on renewal of a licence or on extension of a licence to more animals of the same species or other species from the same family. By removing this trigger, we can envisage that in certain authority areas a licence would be renewed or amended not just once but several times without inspection. In considering Proposal 1, we have taken into account that Proposal 2 will double the period of the licence to two years, thereby halving inspection frequency, and that the impact of that change, with respect to both public safety and animal welfare, has yet to be tested by experience. Although it is true to say that, so far, there have been no serious injuries as a result of escaped wild animals, such escapes are from time to time reported in the media. According to DEFRA, the answer lies in issuing guidance which is intended to promote a more consistent implementation of the legislation and they suggest that a cheaper regime will enhance compliance. ...

*The Committee is satisfied that Proposals 2 and 3 of this LRO meet the tests set out in the 2006 Act and are not otherwise inappropriate for the LRO procedure by affirmative instrument. However the Committee is not satisfied that Proposal 1, which would remove a mandatory trigger for inspection and replace it with guidance, would preserve sufficiently well the existing protections to the public, particularly in the weak and variable enforcement regime described. **As a result, the Committee recommends that the House should be given the opportunity to question the Minister further on this point (before the LRO is brought before the House for formal approval) and therefore recommends the super-affirmative procedure.”***

Other representations

5. No other representations were received during the 60-day period.

Further consultation

6. In order to address the concerns of the DPRRC with regard to Proposal 1, and its possible removal of a necessary protection afforded by the DWAA, Defra officials undertook a further consultation of all local authorities in England and Wales, seeking further evidence on their likely response to Proposal 1 and its intentions. Consultees were advised to consider Proposal 1 in tandem with Proposal 2 (to increase the life of a licence to two years, which would halve the frequency of inspections (on renewal) in any event). A copy of the consultation letter can be found at **Annex A**.

7. Some 61 local authorities responded. In response to the questions put, a majority of them considered that Proposal 1:

- would have little or no impact on their administration and enforcement of the DWAA;
- would not produce a more focused inspection regime leading to more effective protection than currently exists;
- could possibly lead to a regime of “no inspection” because other mandatory duties would take priority;
- would not result in an increase in enforcement action provided by any flexibility resulting from discretionary inspections.

8. In addition, it appeared that the majority of responding local authorities:

- would not be content in foregoing inspections at the two-yearly point or be prepared (based on risk assessment) to leave longer between inspections;
- would still inspect upon renewal of licences every two years, despite the discretion which would be available not to do so in certain cases;
- were not less likely to inspect premises where someone is applying for a second-similar licence (for a species in the same family as an animal for which a licence is already held).

A summary of responses can be found at **Annex B** and a list of those local authorities who provided them is at **Annex C**. Both the RRC and the DPRRC were provided with paper copies of all of the responses separately from this Statement.

Departmental response to the Committees' reports

9. On the basis of this new evidence there appeared to be less appetite than officials had previously thought among local authorities for the flexibility of inspection which Proposal 1 had sought to provide (and on which the DPRRC had reservations), nor any sense that a more targeted inspection programme would increase the levels of enforcement and protection for which the DWAA provides. On this basis Defra officials decided there was no justification in persisting with Proposal 1 and the responsible Defra Minister agreed to their recommendation to drop Proposal 1 from the draft Order. On this basis, the need for further debate on Proposal 1 was negated, the debate itself subsequently cancelled, and a revised draft Order produced.

Resumed scrutiny in Parliament

10. The revised draft Order, which still included Proposals 2 and 3, which both Committees had approved, but with Proposal 1 removed, was laid for resumed scrutiny before both Houses of Parliament under section 18(7) of the LRRRA. The draft Order was subject to the super-affirmative resolution procedure.

(The revised draft also contained minor non-material changes:

- (i) the date of the proposed Order was changed (from 2009 to 2010), as the process ran over into the new year;
- (ii) as there was now only one reference to the DWAA (in (what is now) article 2), an earlier interpretation provision (in what was art.1(2), that "the 1976 Act" meant the DWAA) was deleted. Article 2 simply refers directly to "the Dangerous Wild Animals Act 1976";
- (iii) the Preamble was amended so as to describe the transition from the affirmative to the "super-affirmative" procedure.

11. The DPRRC reported that the revised draft Order had addressed the Committee's earlier concerns with regard to Proposal 1 and that it was appropriate for the Order to proceed as an LRO. Similarly the RRC recommended that the revised draft Order be approved. **The revised draft Order was put to the Floor of the House in the Commons on February 8th and formally approved without debate. The House of Lords agreed to the Motion to approve the Order on March 9th.**

12. A copy of the consolidated text of the DWAA, prior to its anticipated amendment by the draft Order, is at **Annex D** and the pre-consolidated text, what the DWAA will look like after the anticipated amendments, can be found at **Annex E**.

13. Also attached, at **Annex F**, is an updated Impact Assessment reflecting the revised rationale for the draft Order and the fact that one of the main provisions, following further discussion and consultation, has been removed. The cost savings

shown in this version of the Impact Assessment have not been amended post-consultation, or following the removal of the provision, because they were unquantifiable in the first instance. It was decided, with economists, that there was no way to gauge how many local authorities would use the proposed discretion not to inspect and so costings were not included in the original Impact Assessment.

*The Department for Environment, Food and Rural Affairs
Biodiversity Programme
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2 The Square, Temple Quay
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3 August 2009

Dear Sir or Madam

Dangerous Wild Animals Act 1976

Draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009

1. *You may be aware that the Department undertook a public consultation last Summer seeking comment on proposed changes to the arrangements for licensing the keeping of dangerous wild animals. The changes sought to reduce the level of burden imposed on local authorities and animal keepers, whilst retaining the safeguards and other benefits of the legislation.*
2. *In respect of one of the provisions contained in the draft Legislative Reform Order referred to above, namely:*

to remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second, licence

the Department is now seeking evidence of your likely response to it once it is in place.
3. *Full details of this provision and its intentions can be found in the annex below.*
4. *The Delegated Powers & Regulatory Reform Committee of the House of Lords has raised concerns about this proposed change. It envisages that a move from mandatory inspections for all applications to a régime of –*

mandatory inspections only for first applications for a first, or “original” licence;
and

(only) discretionary inspections for renewals of original licences, or for second licences in respect of similar types of animal as are held under one's original licence,

might lead, in the latter (discretionary) cases, to licences being issued or renewed possibly several times without inspection. This, it argues, might be said to be the removal of a "necessary protection" contained in the Act – and something which is not permitted to be done in a Legislative Reform Order. (The Committee also noted that another change contained in the Order, i.e. to extend the duration of a licence from 12 months (maximum) to 2 years, would in any event halve the frequency of inspections (in the case of renewals of a licence), even if inspection were to remain mandatory for all applications.)

5. *In summary, the Committee was not convinced that the removal of the mandatory trigger for inspection in the case of all applications (whether "original", renewals, or "second-similar"), to be replaced only by guidance in those cases (renewals and "second-similar") now made discretionary, would preserve sufficiently well the existing safeguards contained in the Act.*
6. *Based on the information provided, I would be grateful if you could take time to answer the following specific questions relating to this provision:*
 - a) *How do you think your being given the discretion not to inspect in certain circumstances would impact on your administration and enforcement of the Dangerous Wild Animals Act 1976 (DWAA)?;*
 - b) *Do you think additional flexibility will produce a more focused inspection regime, based on risk, and subsequently lead to more effective protection than currently exists?;*
 - c) *Alternatively, do you anticipate that a move to requiring only discretionary inspections in certain cases will all too easily result in "no inspection" in those cases, not as the result of active risk-assessment but justified simply because they were discretionary (and thus always likely to receive less attention/priority than your mandatory duties)?;*
 - d) *Would any flexibility resulting from making some inspection requirements discretionary be likely to produce an overall increase in enforcement action: e.g. to try and address non-compliance (including identifying those who are not licensed at all; checking for compliance with licence conditions)? In "discretionary inspection" applications, would such enforcement action include active risk assessment of whether or not to exercise the discretion in each case?;*
 - e) *Bearing in mind that licence renewals would only happen every two years, would you be content in foregoing an inspection at the two-yearly point,*

following an assessment of risk, and leaving longer periods between inspections?;

f) Despite the discretion available not to inspect would the likelihood be that you would inspect upon renewal every two years anyway?; [If your answer is “yes”, is this because it is “easier” simply to inspect in all cases, rather than actively to consider exercising the discretion in discretionary cases?]

g) Would you be more likely not to inspect premises where someone is applying for a second-similar licence (rather than a renewal of an existing one) for a species in the same family as an animal for which he already holds a licence?

- 7. You will be aware that, new application and renewal inspections aside, you have the ability under the DWAA to authorise inspections of premises (where a licence has been granted or an application made for a licence) at any reasonable time and therefore ad-hoc inspections can be made at any time where there are concerns.*
- 8. Your responses to these questions will be gratefully received and allow the Department to consider further the likely impact of this particular provision. In view of the limited time available prior to further debate in the House of Lords, your comments will need to be received by **Monday 31 August** please.*

Yours sincerely

Dave Wootton
Biodiversity Programme
Department for Environment, Food and Rural Affairs

Annex to re-consultation letter

**DRAFT LEGISLATIVE REFORM (DANGEROUS WILD ANIMALS) (LICENSING)
ORDER 2009**

One of the provisions contained in the above draft Order will:

remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second, licence

This would amend the Dangerous Wild Animals Act 1976 so as to remove in certain cases the current **mandatory** requirement, contained in section 1(5) of the Act, **for an inspection to be carried out in respect of all applications**, and replace it (in those same cases) with a discretionary requirement to inspect.

So, **where the holder of an existing current licence** applies for another licence in respect of:

- *the same species of animal as is subject to his existing licence; or*
- *a different animal within the same family of species as that which is subject to his current licence;*

and where:

- *the conditions of the new licence as regards the keeping of any animal are to be substantially the same as in the existing licence; and*
- *the local authority is satisfied that the grant of the new licence is not contrary to the public interest on the grounds of safety, nuisance or otherwise;*

inspections will be required only when the local authority considers it to be necessary. Mandatory inspections will remain a requirement in relation to all other applications for a licence.

This proposal should be read and considered in tandem with another proposed revision to the Act, which is to increase the life of a licence to two years, thereby halving the frequency of inspections (on renewal) in any event.

The intention of this provision is to provide local authorities with flexibility in the requirements for undertaking inspections and to reduce administrative and financial burdens on local authorities and keepers. It will enable inspections and administrative effort to be more focused on risk and on the regulatory objectives.

The discretion not to inspect will only apply in limited circumstances (principally, upon applications for licence renewals, or for “second-similar” licences). Local authorities also retain the power to authorise inspection of licensed premises at any reasonable time (i.e. inspection is not restricted only to the consideration of an application, but may be made at any time).

SUMMARY OF RESPONSES FROM LOCAL AUTHORITIES IN RELATION TO THE PROVISION TO REMOVE THE MANDATORY REQUIREMENT FOR INSPECTIONS IN RESPECT OF CERTAIN LICENCE APPLICATIONS

Dangerous Wild Animals Act 1976 (DWAA)

Draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009

1. One of the provisions contained in the draft Legislative Reform Order referred to above is:

“to remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second, licence”

2. The Delegated Powers & Regulatory Reform Committee of the House of Lords raised concerns about this proposed change. It envisages that a move from mandatory inspections for *all* applications to a régime of –

mandatory inspections only for first applications for a first, or “original” licence;

and

(only) discretionary inspections for renewals of original licences, or for second licences in respect of similar types of animal as are held under one’s original licence,

might lead, in the latter (discretionary) cases, to licences being issued or renewed possibly several times without inspection. This, it argues, might be said to be the removal of a “necessary protection” contained in the Act – and something which is not permitted to be done in a Legislative Reform Order. (The Committee also noted that another change contained in the Order, i.e. to extend the duration of a licence from 12 months (maximum) to 2 years, would in any event halve the frequency of inspections (in the case of renewals of a licence), even if inspections were to remain mandatory for all applications.)

3. In summary, the Committee was not convinced that the removal of the mandatory trigger for inspection in the case of *all* applications (whether “original”, renewals, or “second-similar”), to be replaced only by guidance in those cases (renewals and “second-similar”) now made discretionary, would preserve sufficiently well the existing safeguards contained in the Act.

4. The response from local authorities to the original consultation last year was not large and opinion on this particular provision was divided. In order to seek further evidence on the likely response to the provision once in place the Department wrote

again to all the Chief Executives of all the local authorities in England and Wales with DWAA responsibilities.

5. The questions asked of the local authorities (61 responded), together with a summary of the responses, are detailed below:

a) *How do you think your being given the discretion not to inspect in certain circumstances would impact on your administration and enforcement of the DWAA?*

The provision would have little or no impact on the administration and enforcement of the DWAA in nearly two thirds of those authorities who responded.

b) *Do you think additional flexibility will produce a more focused inspection regime, based on risk, and subsequently lead to more effective protection than currently exists?*

Some two thirds of authorities thought that the additional flexibility would not produce a more focused inspection regime leading to more effective protection than currently exists (in fact a number thought that it would lead to less effective protection than currently exists).

c) *Alternatively, do you anticipate that a move to requiring only discretionary inspections in certain cases will all too easily result in “no inspection” in those cases, not as the result of active risk-assessment but justified simply because they were discretionary (and thus always likely to receive less attention/priority than your mandatory duties)?*

Over half the authorities thought that a move to discretionary inspections in certain cases would lead to “no inspection” (because other mandatory duties would take priority).

d) *Would any flexibility resulting from making some inspection requirements discretionary be likely to produce an overall increase in enforcement action: e.g. to try and address non-compliance (including identifying those who are not licensed at all; checking for compliance with licence conditions)? In “discretionary inspection” applications, would such enforcement action include active risk assessment of whether or not to exercise the discretion in each case?*

Three quarters of the authorities did not agree that any flexibility resulting from discretionary inspections would result in an increase in enforcement activity (some stated that any resources released would

most likely be absorbed elsewhere, i.e. on other mandatory duties).

e) Bearing in mind that licence renewals would only happen every two years, would you be content in foregoing an inspection at the two-yearly point, following an assessment of risk, and leaving longer periods between inspections?

Over two thirds of authorities would not be content in foregoing an inspection at the two-yearly point or leaving longer periods between inspections.

f) Despite the discretion available not to inspect would the likelihood be that you would inspect upon renewal every two years anyway?; [If your answer is “yes”, is this because it is “easier” simply to inspect in all cases, rather than actively to consider exercising the discretion in discretionary cases?]

Over three quarters of authorities would still inspect upon renewal of licences every two years anyway despite the discretion not to in certain cases.

g) Would you be more likely not to inspect premises where someone is applying for a second-similar licence (rather than a renewal of an existing one) for a species in the same family as an animal for which he already holds a licence?

Over half of the local authorities said they were not less likely to inspect and would always inspect in such circumstances.

6. In conclusion it would appear that the desire within local authorities for flexibility regarding the requirement to inspect in all circumstances is fairly low. A number of local authorities have so few, if any, dangerous wild animals to licence that administration and enforcement takes up little resource (and little would be saved via this provision). Added to this is the fact that the majority authorities want to be seen to be doing as much as they can to ensure the DWAA is implemented properly, and that public safety is maintained, and so would inspect in all cases anyway (and would not want to leave inspections any longer than the proposed two years either).

7. There is also a feeling that discretionary inspections may lead to less protection than currently exists and that priority will always be given to mandatory duties within the authority, to the possible detriment of the DWAA. In addition, because of the relatively low profile of the DWAA within local authorities, it is likely that if there were any resource savings falling from the discretionary inspection regime would be used elsewhere (on mandatory duties) rather than on increased enforcement of the Act.

8. On the basis of this evidence we appear to have little to counter the concerns of the House of Lords Scrutiny Committee or endorse our argument that “necessary protection” will not be affected. This being the case it would appear there seems to be little mileage in removing the mandatory requirement for inspections in certain cases and may be the provision should be dropped to ensure the rest of the Order survives.

Dave Wootton
Biodiversity Programme

LOCAL AUTHORITIES WHO RESPONDED TO THE CONSULTATION IN RELATION TO THE PROVISION TO REMOVE THE MANDATORY REQUIREMENT FOR INSPECTIONS IN RESPECT OF CERTAIN LICENCE APPLICATIONS

- **Adur District Council**
- **Allerdale Borough Council**
- **Amber Valley Borough Council**
- **Babergh District Council**
- **Basildon District Council**
- **Bath & North East Somerset Council**
- **Birmingham City Council**
- **Bracknell Forest Borough Council**
- **Bradford Metropolitan Borough Council**
- **Bristol City Council**
- **Broadland District Council**
- **Broxbourne Borough Council**
- **Broxtowe Borough Council**
- **Ceredigion County Council**
- **Charnwood Borough Council**
- **Chelmsford Borough Council**
- **Cheshire West and Chester Council**
- **Cornwall Council**
- **Denbighshire County Council**
- **East Hants District Council**
- **Fareham Borough Council**
- **Flintshire County Council**
- **Gateshead Council**
- **Gosport Council**
- **Gwynedd Council**

- **Hertsmere Borough Council**
- **Hinckley/Bosworth Borough Council**
- **London Borough of Bexley**
- **London Borough of Ealing**
- **London Borough of Hammersmith and Fulham**
- **London Borough of Haringey**
- **London Borough of Havering**
- **London Borough of Newham**
- **London Borough of Sutton**
- **Luton Borough Council**
- **Medway Council**
- **Mole Valley District Council**
- **New Forest District Council**
- **Northampton District Council**
- **North Devon Council**
- **North Somerset Council**
- **North Tyneside Council**
- **Rochford District Council**
- **Ryedale District Council**
- **Shropshire Council**
- **South Gloucester Council**
- **St Albans City & District Council**
- **Stockton-on-Tees Council**
- **Swale Borough Council**
- **Tameside Metropolitan Borough Council**
- **Tandridge District Council**
- **Test Valley District Council**
- **Tewkesbury Borough Council**
- **Warrington Borough Council**
- **Welwyn Hatfield District Council**

- **Weymouth & Portland Borough Council**
- **Wirral Council**
- **Wokingham District Council**
- **Wolverhampton City Council**
- **Worthing Borough Council**
- **Wychavon District Council**

The Dangerous Wild Animals Act 1976

consolidated text of the Act as it applies to England and Wales(), prior to its anticipated amendment by*

(in revised draft) **The Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2010**

*(*Different versions of section 6 and the Schedule apply in Scotland)*

Certified as accurate as at 10th November, 2009: S.D. Croft DEFRA Legal Dept.

Dangerous Wild Animals Act 1976

1976 CHAPTER 38

An Act to regulate the keeping of certain kinds of dangerous wild animals. [22nd July 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Licences

- 1.— (1) Subject to section 5 of this Act, no person shall keep any dangerous wild animal except under the authority of a licence granted in accordance with the provisions of this Act by a local authority.
- (2) A local authority shall not grant a licence under this Act unless an application for it—
- (a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;
 - (b) specifies the premises where any animal concerned will normally be held;
 - (c) is made to the local authority in whose area those premises are situated;
 - (d) is made by a person who is neither under the age of 18 nor disqualified under this Act from keeping any dangerous wild animal; and
 - (e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).
- (3) A local authority shall not grant a licence under this Act unless it is satisfied that—
- (a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;
 - (b) the applicant for the licence is a suitable person to hold a licence under this Act;
 - (c) any animal concerned will at all times of its being kept only under the authority of the licence—

(i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

(ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;

(d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;

(e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;

(f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

(4) A local authority shall not grant a licence under this Act unless the application for it is made by a person who both owns and possesses, or proposes both to own and to possess, any animal concerned, except where the circumstances are in the authority's opinion exceptional.

(5) A local authority shall not grant a licence under this Act unless a veterinary surgeon or veterinary practitioner authorised by the authority to do so under section 3 of this Act has inspected the premises where any animal will normally be held in pursuance of the licence and the authority has received and considered a report by the surgeon or practitioner, containing such particulars as in the authority's opinion enable it to decide whether the premises are such that any animal proposed to be kept under the authority of the licence may suitably be held there, and describing the condition of the premises and of any animal or other thing found there.

(6) Subject to subsections (2) to (5) of this section, a local authority may grant or refuse a licence under this Act as it thinks fit, but where it decides to grant such a licence it shall specify as conditions of the licence—

(a) conditions that, while any animal concerned is being kept only under the authority of the licence,—

(i) the animal shall be kept by no person other than such person or persons as is or are specified (whether by name or description) in the licence;

(ii) the animal shall normally be held at such premises as are specified in the licence;

(iii) the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;

(iv) the person to whom the licence is granted shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and

(v) the terms of any such policy shall be satisfactory in the opinion of the authority;

(b) conditions restricting the species (whether one or more) of animal, and number of animals of each species, which may be kept under the authority of the licence;

(c) a condition that the person to whom the licence is granted shall at all reasonable times make available a copy of the licence to any person entitled to keep any animal under the authority of the licence;

(d) such other conditions as in the opinion of the authority are necessary or desirable for the purpose of securing the objects specified in paragraphs (c) to (f) of subsection (3) of this section.

(7) Subject to subsection (6) of this section, a local authority may, in granting a licence under this Act, specify such conditions of the licence as it thinks fit.

(8) Where a local authority proposes to insert in a licence under this Act a provision permitting any animal to be, for any continuous period exceeding 72 hours, at premises outside the area of the authority, the authority shall consult the local authority in whose area those premises are situated.

(9) A local authority which grants a licence under this Act may at any time vary the licence by specifying any new condition of the licence or varying or revoking any condition of it (including any condition specified, or previously varied, under this subsection); but any condition of a licence specified by virtue of subsection (6) of this section may not be revoked and any condition specified by virtue of paragraph (a)(ii) of that subsection may not be varied.

(10) Where a local authority varies a licence under subsection (9) of this section, then—

(a) if the variation was requested by the person to whom the licence was granted, the variation shall take effect immediately after the authority decides to make it;

(b) in any other case, the variation shall not take effect until the person to whom the licence was granted has become aware of the variation and had a reasonable time to comply with it.

Provisions supplementary to section 1

2.— (1) Where—

(a) a person is aggrieved by the refusal of a local authority to grant a licence under this Act, or

(b) a person to whom such a licence has been granted is aggrieved by a condition of the licence (whether specified at the time the licence is granted or later) or by the variation or revocation of any condition of the licence,

he may appeal to a magistrates' court; and the court may on such appeal give such directions with respect to the grant of a licence or, as the case may be, with respect to the conditions of the licence as it thinks proper, having regard to the provisions of this Act.

(2) Any licence under this Act shall (according to the applicant's requirements) relate to the calendar year in which it is granted or to the next following year.

In the former case, the licence shall come into force at the beginning of the day on which it is granted, and in the latter case it shall come into force at the beginning of the next following year.

(3) Subject to the provisions hereinafter contained with respect to cancellation, any licence under this Act shall remain in force until the end of the year to which it relates and shall then expire:

Provided that if application is made for a further licence before the said date of expiry the licence shall be deemed to be still in force pending the grant or refusal of the said application, and if it is granted the new licence shall commence from the date of the expiry of the last licence.

(4) In the event of the death of anyone to whom a licence has been granted under this Act the said licence shall continue in force for a period of twenty-eight days as if it had been granted to the personal representatives of the deceased and if application is made for a new licence within the said period the said licence shall be deemed to be still in force pending the grant or refusal of that application.

(5) Any person who contravenes the provisions of section 1(1) of this Act shall be guilty of an offence.

(6) If any condition of a licence under this Act is contravened or not complied with, then,—

(a) the person to whom the licence was granted, and

(b) any other person who is entitled to keep any animal under the authority of the licence and who was primarily responsible for the contravention or failure to comply,

shall, subject to subsection (7) of this section, be guilty of an offence.

(7) In any proceedings for an offence under subsection (6) of this section, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) In the application of this section to Scotland, in subsection (1) for any reference to a magistrates' court there shall be substituted a reference to the sheriff.

Inspection by local authority

3.—(1) Subject to subsection (2) of this section, a local authority to which an application has been made for a licence under this Act, or which has granted such a licence, may authorise in writing any veterinary surgeon or veterinary practitioner or such other person as it may deem competent to do so to inspect any premises where any animal is proposed to be held in pursuance of a licence for which an application has been made under this Act, or where any animal is or may be held in pursuance of a licence which has been granted under this Act; and any persons authorised under this section may, on producing their authority if so required, enter any such premises at all reasonable times and inspect them and any animal or other thing found there, for the purpose of ascertaining whether or not a licence should be granted or varied or whether an offence has been or is being committed against this Act.

(2) A local authority shall not give an authority under subsection (1) of this section to inspect premises situated outside its area unless it has obtained the approval of the local authority in whose area those premises are situated.

(3) The local authority may require the person who has applied for a licence under this Act or, as the case may be, to whom the licence concerned has been granted under this Act to pay the local authority the reasonable costs of the inspection.

(4) Any person who wilfully obstructs or delays any person in the exercise of his power of entry or inspection under this section shall be guilty of an offence.

Power to seize and to dispose of animals without compensation

4.—(1) Where—

(a) an animal is being kept contrary to section 1(1) of this Act, or

(b) any condition of a licence under this Act is contravened or not complied with,

the local authority in whose area any animal concerned is for the time being may seize the animal, and either retain it in the authority's possession or destroy or otherwise dispose of it, and shall not be liable to pay compensation to any person in respect of the exercise of its powers under this subsection.

(2) A local authority which incurs any expenditure in exercising its powers under subsection (1)(a) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from any person who was at the time of the seizure a keeper of the animal concerned.

(3) A local authority which incurs any expenditure in exercising its powers under subsection (1)(b) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from the person to whom the licence concerned was granted.

Exemptions

5. The provisions of this Act shall not apply to any dangerous wild animal kept in:—

(1) a zoo within the meaning of the Zoo Licensing Act 1981 for which a licence is in force (or is not for the time being required) under that Act;

(2) a circus;

(3) premises licensed as a pet shop under the Pet Animals Act 1951;

(4) a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986.

Penalties

6.— (1) Any person guilty of an offence under any provision of this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where a person is convicted of any offence under this Act or of any offence under the Protection of Animals Act 1911, the Protection of Animals (Scotland) Acts 1912 to 1964, the Performing Animals (Regulation) Act 1925, the Pet Animals Act 1951, the Animals (Cruel Poisons) Act 1962, the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, or the Breeding of Dogs Act 1973, or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006, the court by which he is convicted may cancel any licence held by him under this Act, and may, whether or not he is the holder of such a licence, disqualify him from keeping any dangerous wild animal for such period as the court thinks fit.

(3) A court which has ordered the cancellation of a person's licence, or his disqualification, in pursuance of the last foregoing subsection may, if it thinks fit, suspend the operation of the order pending an appeal.

Interpretation

7.— (1) Subject to subsection (2) of this section, for the purposes of this Act a person is a keeper of an animal if he has it in his possession; and if at any time an animal ceases to be in the possession of a person, any person who immediately before that time was a keeper thereof by virtue of the preceding provisions of this subsection continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of those provisions.

(2) Where an animal is in the possession of any person for the purpose of—

(a) preventing it from causing damage,

(b) restoring it to its owner,

(c) undergoing veterinary treatment, or

(d) being transported on behalf of another person,

the person having such possession shall not by virtue only of that possession be treated for the purposes of this Act as a keeper of the animal.

(3) In this Act expressions cognate with “keeper” shall be construed in accordance with subsections (1) and (2) of this section.

(4) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“circus” includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres;

“damage” includes the death of, or injury to, any person;

“dangerous wild animal” means any animal of a kind for the time being specified in the first column of the Schedule to this Act;

“local authority” means in relation to England a district council, a London borough council or the Common Council of the City of London, in relation to Wales, a county council or county borough council, and, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“premises” includes any place;

“veterinary practitioner” means a person who is for the time being registered in the supplementary veterinary register;

“veterinary surgeon” means a person who is for the time being registered in the register of veterinary surgeons.

(5) The second column of the Schedule to this Act is included by way of explanation only; in the event of any dispute or proceedings, only the first column is to be taken into account.

Power of Secretary of State to modify the Schedule

8.— (1) If the Secretary of State is satisfied that the scope of this Act should be extended so as to include animals of a kind not for the time being specified in the Schedule to this Act or diminished so as to exclude animals of a kind for the time being specified in that Schedule, he may by order make the necessary modifications to that Schedule and any such order may be revoked by a subsequent order under this subsection.

(2) The power conferred by the foregoing subsection on the Secretary of State shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Protection of existing keepers

9. Notwithstanding anything in this Act, a person who immediately before the date of the commencement of this Act was keeping a dangerous wild animal at any premises and who is not disqualified as mentioned in section 6(2) of this Act, shall be entitled to keep such animal at those premises without a licence under this Act—

(a) for the period of 90 days beginning with that date; and

(b) if before the expiration of that period he applies for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn.

Short title, commencement and extent

- 10.— (1) This Act may be cited as the Dangerous Wild Animals Act 1976.
- (2) This Act shall come into operation at the expiration of a period of three months beginning with the date on which it is passed.
- (3) This Act does not extend to Northern Ireland.

SCHEDULE Section 7

KINDS OF DANGEROUS WILD ANIMALS

NOTE: See section 7(5) of this Act for the effect of the second column of this Schedule

<i>Scientific name of kind</i>	<i>Common name or names</i>
MAMMALS	
Marsupials	
Family Dasyuridae: The species <i>Sarcophilus laniarius</i> .	The Tasmanian devil.
Family Macropodidae: The species <i>Macropus fuliginosus</i> , <i>Macropus giganteus</i> , <i>Macropus robustus</i> and <i>Macropus rufus</i> .	The western and eastern grey kangaroos, the wallaroo and the red kangaroo.
Primates	
Family Cebidae: All species except those of the genera <i>Aotus</i> , <i>Callicebus</i> and <i>Saimiri</i> .	New-world monkeys (including capuchin, howler, saki, uacari, spider and woolly monkeys). Night monkeys (also known as owl monkeys), titi monkeys and squirrel monkeys are excepted.
Family Cercopithecidae: All species.	Old-world monkeys (including baboons, the drill, colobus monkeys, the gelada, guenons, langurs, leaf monkeys, macaques, the mandrill, mangabeys, the patas and proboscis monkeys and the talapoin).
Family Hominidae: All species except those of the genus <i>Homo</i> .	Anthropoid apes; chimpanzees, bonobos, orang-utans and gorillas.
Family Hylobatidae: All species.	Gibbons and Siamangs.
Family Indriidae: All species of the genera <i>Propithecus</i> and <i>Indri</i> (<i>Avahi laniger</i> is excepted).	Leaping lemurs (including the indri and sifakas). The woolly lemur is excepted.
Family Lemuridae: All species except those of the genus <i>Haplemur</i> .	Large lemurs. Bamboo or gentle lemurs are excepted.
Edentates	
Family Dasypodidae: The species <i>Priodontes maximus</i> .	The giant armadillo.
Family Myrmecophagidae: The species <i>Myrmecophaga tridactyla</i> .	The giant anteater.

Carnivores	
<p>Family Canidae: All species except those of the genera <i>Alopex</i>, <i>Cerdocyon</i>, <i>Dusicyon</i>, <i>Otocyon</i>, <i>Pseudolopex</i>, <i>Urocyon</i>, <i>Vulpes</i> and <i>Nyctereutes</i>. The species <i>Canis familiaris</i>, other than the subspecies <i>Canis familiaris dingo</i>, is also excepted.</p>	<p>Wild dogs, wolves, jackals, the maned wolf, the bush dog and the dhole. Foxes, raccoon dogs and the domestic dog (but not the dingo) are excepted.</p>
<p>Family Felidae: All except—</p> <ul style="list-style-type: none"> (a) the species <i>Felis silvestris</i>, <i>Otocolobus manul</i>, <i>Leopardus tigrinus</i>, <i>Oncifelis geoffroyi</i>, <i>Oncifelis guigna</i>, <i>Catopuma badia</i>, <i>Felis margarita</i>, <i>Felis nigripes</i>, <i>Prionailurus rubiginosus</i> and <i>Felis silvestris catus</i>; (b) a hybrid which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid of which— <ul style="list-style-type: none"> (i) one parent is <i>Felis silvestris catus</i>, and (ii) the other parent is a first generation hybrid of <i>Felis silvestris catus</i> and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)); (e) any cat which is descended exclusively from <i>Felis silvestris catus</i> and any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)). 	<p>All cats including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval and tiger.</p> <p>The following are excepted:</p> <ul style="list-style-type: none"> (a) the wild cat, the pallas cat, the little spotted cat, the Geoffroy's cat, the kodkod, the bay cat, the sand cat, the black-footed cat, the rusty-spotted cat and the domestic cat; (b) a hybrid cat which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid cat having as one parent a domestic cat and as the other parent a first generation hybrid of a domestic cat and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c); (e) any cat which is descended exclusively from a domestic cat and any one or more hybrids within paragraph (c).
<p>Family Hyaenidae: All except the species <i>Proteles cristatus</i>.</p>	<p>Hyænas. The aardwolf is excepted.</p>
<p>Family Mustelidae: All species of the genera <i>Amblonyx</i>, <i>Arctonyx</i>, <i>Aonyx</i>, <i>Enhydra</i>, <i>Lontra</i>, <i>Melogale</i>, <i>Mydaus</i>, <i>Pteronura</i> and <i>Taxidea</i>. The genus <i>Lutra</i> except the species <i>Lutra lutra</i>. The species <i>Eira barbara</i>, <i>Gulo gulo</i>, <i>Martes pennanti</i> and <i>Mellivora capensis</i>.</p>	<p>Badgers (except the Eurasian badger), otters (except the European otter) and the tayra, wolverine, fisher and ratel (otherwise known as the honey badger).</p>
<p>Family Ursidae: All species including the species <i>Ailuropoda melanoleuca</i> and <i>Ailurus fulgens</i>.</p>	<p>All bears including the giant panda and the red panda.</p>
<p>Family Viverridae: All of the genus <i>Civettictis</i>. All of the genus <i>Viverra</i>.</p>	<p>The African, large-spotted, Malay and Indian civets and the fossa.</p>

The species <i>Cryptoprocta ferox</i> .	
Pinnipedes	
Family Odobenidae: All species.	The walrus.
Family Otariidae: All species.	Eared seals.
Family Phocidae: All species except <i>Phoca vitulina</i> and <i>Halichoerus grypus</i> .	True or earless seals. The common seal (or harbour seal) and grey seal are excepted.
Elephants	
Family Elephantidae: All species.	Elephants.
Aardvark	
Family Orycteropodidae: The species <i>Orycteropus afer</i> .	The aardvark.
Odd-toed ungulates	
Family Equidae: All species except <i>Equus asinus</i> and <i>Equus caballus</i> .	Asses, horses and zebras. The donkey and domestic horse are excepted.
Family Rhinocerotidae: All species.	Rhinoceroses.
Family Tapiridae: All species.	Tapirs.
Even-toed ungulates	
Family Antilocapridae: The species <i>Antilocapra americana</i> .	The pronghorn.
Family Bovidae: All species except any domestic form of the genera <i>Bos</i> , <i>Bubalus</i> , <i>Capra</i> and <i>Ovis</i> .	Antelopes, bison, buffalo, gazelles, goats and sheep. Domestic cattle, buffalo, goats and sheep are excepted.
Family Camelidae: All species of the genus <i>Camelus</i> .	Camels.
Family Cervidae: All species of the genera <i>Alces</i> and <i>Rangifer</i> , except any domestic form of the species <i>Rangifer tarandus</i> .	The moose or elk and the caribou or reindeer. The domestic reindeer is excepted.
Family Giraffidae: All species	The giraffe and the okapi.
Family Hippopotamidae: All species.	The hippopotamus and the pygmy hippopotamus.
Family Suidae: All species except any domestic form of the species <i>Sus scrofa</i> .	Old-world pigs (including the wild boar and the wart hog). The domestic pig is excepted.
Family Tayassuidae: All species.	New-world pigs (otherwise known as peccaries).
Hybrids	
Any hybrid of a kind of animal specified (other than by way of exception) in the foregoing provisions of this column where at least one parent is of a kind so specified, and any animal of which at least one parent is such a hybrid. This does not include an excepted hybrid of the Family <i>Felidae</i> .	Any mammalian hybrids with at least one parent of a specified kind, and any animal of which at least one parent is such a hybrid. This does not apply to excepted cat hybrids.

<u>BIRDS</u>	
Cassowaries	
Family Casuariidae: All species.	Cassowaries.
Ostrich	
Family Struthionidae: All species.	The ostrich.
<u>REPTILES</u>	
Crocodilians	
Family Alligatoridae: All species.	Alligators and caimans.
Family Crocodylidae: All species.	Crocodiles and the false gharial.
Family Gavialidae: All species.	The gharial (otherwise known as the gavial).
Lizards and snakes	
Family Atractaspididae: All species of the genus <i>Atractaspis</i> .	Burrowing asps, also known as mole or burrowing vipers and stiletto snakes.
Family Colubridae. All species of the genera <i>Malpolon</i> and <i>Thelotornis</i> . The species <i>Dispholidus typus</i> , <i>Rhabdophis subminiatus</i> , <i>Rhabdophis tigrinus</i> , <i>Elapomorphus lemniscatus</i> , <i>Philodryas olfersii</i> , <i>Tachymenis peruviana</i> and <i>Xenodon severus</i> .	Certain rear-fanged venomous snakes, Montpellier snakes and African vine snakes (otherwise known as African twig or bird snakes). The boomslang, the red-necked keelback, the yamakagashi (otherwise known as the Japanese tiger-snake), the Argentine black-headed snake, the South American green racer, the Peruvian racer and the Amazon false viper.
Family Elapidae: All species.	Certain front-fanged venomous snakes including cobras, coral snakes, kraits, mambas, whipsnakes and all Australian poisonous snakes (including the death adders).
Family Hydrophiidae: All species.	Sea snakes.
Family Helodermatidae: All species.	The gila monster and the (Mexican) beaded lizard.
Family Viperidae: All species.	Certain front-fanged venomous snakes (including adders, the barba amarilla, the bushmaster, the fer-de-lance, moccasins, rattlesnakes and vipers).
<u>INVERTEBRATES</u>	
Spiders	
Family Ctenidae: The genus <i>Phoneutria</i> .	Wandering spiders.
Family Hexathelidae: The genus <i>Atrax</i> .	The Sydney funnel-web spider and its close relatives.
Family Sicariidae: The genus <i>Loxosceles</i> .	Brown recluse spiders (otherwise known as violin spiders).
Family Theridiidae: The genus <i>Latrodectus</i> .	The widow spiders and close relatives.

Scorpions	
Family <i>Buthidae</i> : All species.	Buthid scorpions.
Family <i>Hemioscorpiidae</i> : The species <i>Hemiscorpius lepturus</i> .	Middle-Eastern thin-tailed scorpion.”

Dangerous Wild Animals Act 1976 as it applies to England and Wales; (different versions of section 6 and the Schedule apply in Scotland)

“Pre-consolidated text” of the Act as it will apply to England and Wales, if the amendment proposed in the revised draft **Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2010** (“the Order”) is passed.

Certified as accurate: *S.D. Croft* DEFRA Legal Dept., 10th November, 2009

Dangerous Wild Animals Act 1976

1976 CHAPTER 38

An Act to regulate the keeping of certain kinds of dangerous wild animals. [22nd July 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Licences

- 1.**— (1) Subject to section 5 of this Act, no person shall keep any dangerous wild animal except under the authority of a licence granted in accordance with the provisions of this Act by a local authority.
- (2) A local authority shall not grant a licence under this Act unless an application for it—
- (a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;
 - (b) specifies the premises where any animal concerned will normally be held;
 - (c) is made to the local authority in whose area those premises are situated;
 - (d) is made by a person who is neither under the age of 18 nor disqualified under this Act from keeping any dangerous wild animal; and
 - (e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).
- (3) A local authority shall not grant a licence under this Act unless it is satisfied that—
- (a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;
 - (b) the applicant for the licence is a suitable person to hold a licence under this Act;
 - (c) any animal concerned will at all times of its being kept only under the authority of the licence—
 - (i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage

and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

(ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;

(d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;

(e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;

(f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

(4) A local authority shall not grant a licence under this Act unless the application for it is made by a person who both owns and possesses, or proposes both to own and to possess, any animal concerned, except where the circumstances are in the authority's opinion exceptional.

(5) A local authority shall not grant a licence under this Act unless a veterinary surgeon or veterinary practitioner authorised by the authority to do so under section 3 of this Act has inspected the premises where any animal will normally be held in pursuance of the licence and the authority has received and considered a report by the surgeon or practitioner, containing such particulars as in the authority's opinion enable it to decide whether the premises are such that any animal proposed to be kept under the authority of the licence may suitably be held there, and describing the condition of the premises and of any animal or other thing found there.

(6) Subject to subsections (2) to (5) of this section, a local authority may grant or refuse a licence under this Act as it thinks fit, but where it decides to grant such a licence it shall specify as conditions of the licence—

(a) conditions that, while any animal concerned is being kept only under the authority of the licence,—

(i) the animal shall be kept by no person other than such person or persons as is or are specified (whether by name or description) in the licence;

(ii) the animal shall normally be held at such premises as are specified in the licence;

(iii) the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;

(iv) the person to whom the licence is granted shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and

(v) the terms of any such policy shall be satisfactory in the opinion of the authority;

(b) conditions restricting the species (whether one or more) of animal, and number of animals of each species, which may be kept under the authority of the licence;

(c) a condition that the person to whom the licence is granted shall at all reasonable times make available a copy of the licence to any person entitled to keep any animal under the authority of the licence;

(d) such other conditions as in the opinion of the authority are necessary or desirable for the purpose of securing the objects specified in paragraphs (c) to (f) of subsection (3) of this section.

(7) Subject to subsection (6) of this section, a local authority may, in granting a licence under this Act, specify such conditions of the licence as it thinks fit.

(8) Where a local authority proposes to insert in a licence under this Act a provision permitting any animal to be, for any continuous period exceeding 72 hours, at premises outside the area of the authority, the authority shall consult the local authority in whose area those premises are situated.

(9) A local authority which grants a licence under this Act may at any time vary the licence by specifying any new condition of the licence or varying or revoking any condition of it (including any condition specified, or previously varied, under this subsection); but any condition of a licence specified by virtue of subsection (6) of this section may not be revoked and any condition specified by virtue of paragraph (a)(ii) of that subsection may not be varied.

(10) Where a local authority varies a licence under subsection (9) of this section, then—

(a) if the variation was requested by the person to whom the licence was granted, the variation shall take effect immediately after the authority decides to make it;

(b) in any other case, the variation shall not take effect until the person to whom the licence was granted has become aware of the variation and had a reasonable time to comply with it.

Provisions supplementary to section 1

2.— (1) Where—

(a) a person is aggrieved by the refusal of a local authority to grant a licence under this Act, or

(b) a person to whom such a licence has been granted is aggrieved by a condition of the licence (whether specified at the time the licence is granted or later) or by the variation or revocation of any condition of the licence,

he may appeal to a magistrates' court; and the court may on such appeal give such directions with respect to the grant of a licence or, as the case may be, with respect to the conditions of the licence as it thinks proper, having regard to the provisions of this Act.

(2) Subject to subsection (3A)(a) of this section, any licence under this Act shall come into force immediately upon being granted.

(3) Subject to subsection (3A)(b) of this section and the provisions of this Act with respect to cancellation, any licence granted under this Act shall remain in force for two years and shall then expire:

(3A) Where, before the expiry of a licence granted under this Act (“the existing licence”), an application is made for a licence to be granted by way of renewal of the existing licence—

(a) if a licence is so granted, it shall come into force from the date of expiry of the existing licence, whether it is granted before, on or after that date;

(b) if the grant or refusal of that application occurs after the date of expiry of the existing licence, the existing licence shall be deemed to be still in force until the grant or refusal.

(3B) For the purposes of subsection (3A) of this section, a licence is not granted by way of renewal of an existing licence unless it is granted in respect of any species in respect of which the existing licence was granted (whether or not either licence also relates to some other species).

(4) In the event of the death of anyone to whom a licence has been granted under this Act the said licence shall continue in force for a period of twenty-eight days as if it had been granted to the personal representatives of the deceased and if application is made for a new licence within the said period the said licence shall be deemed to be still in force pending the grant or refusal of that application.

(5) Any person who contravenes the provisions of section 1(1) of this Act shall be guilty of an offence.

(6) If any condition of a licence under this Act is contravened or not complied with, then,—

(a) the person to whom the licence was granted, and

(b) any other person who is entitled to keep any animal under the authority of the licence and who was primarily responsible for the contravention or failure to comply,

shall, subject to subsection (7) of this section, be guilty of an offence.

(7) In any proceedings for an offence under subsection (6) of this section, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) In the application of this section to Scotland, in subsection (1) for any reference to a magistrates' court there shall be substituted a reference to the sheriff.

Inspection by local authority

3.— (1) Subject to subsection (2) of this section, a local authority to which an application has been made for a licence under this Act, or which has granted such a licence, may authorise in writing any veterinary surgeon or veterinary practitioner or such other person as it may deem competent to do so to inspect any premises where any animal is proposed to be held in pursuance of a licence for which an application has been made under this Act, or where any animal is or may be held in pursuance of a licence which has been granted under this Act; and any persons authorised under this section may, on producing their authority if so required, enter any such premises at all reasonable times and inspect them and any animal or other thing found there, for the purpose of ascertaining whether or not a licence should be granted or varied or whether an offence has been or is being committed against this Act.

(2) A local authority shall not give an authority under subsection (1) of this section to inspect premises situated outside its area unless it has obtained the approval of the local authority in whose area those premises are situated.

(3) The local authority may require the person who has applied for a licence under this Act or, as the case may be, to whom the licence concerned has been granted under this Act to pay the local authority the reasonable costs of the inspection.

(4) Any person who wilfully obstructs or delays any person in the exercise of his power of entry or inspection under this section shall be guilty of an offence.

Power to seize and to dispose of animals without compensation

4.— (1) Where—

(a) an animal is being kept contrary to section 1(1) of this Act, or

(b) any condition of a licence under this Act is contravened or not complied with,

the local authority in whose area any animal concerned is for the time being may seize the animal, and either retain it in the authority's possession or destroy or otherwise dispose of it, and shall not be liable to pay compensation to any person in respect of the exercise of its powers under this subsection.

(2) A local authority which incurs any expenditure in exercising its powers under subsection (1)(a) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from any person who was at the time of the seizure a keeper of the animal concerned.

(3) A local authority which incurs any expenditure in exercising its powers under subsection (1)(b) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from the person to whom the licence concerned was granted.

Exemptions

5. The provisions of this Act shall not apply to any dangerous wild animal kept in:—

- (1) a zoo within the meaning of the Zoo Licensing Act 1981 for which a licence is in force (or is not for the time being required) under that Act;
- (2) a circus;
- (3) premises licensed as a pet shop under the Pet Animals Act 1951;
- (4) a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986.

Penalties

6.— (1) Any person guilty of an offence under any provision of this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where a person is convicted of any offence under this Act or of any offence under the Protection of Animals Act 1911, the Protection of Animals (Scotland) Acts 1912 to 1964, the Performing Animals (Regulation) Act 1925, the Pet Animals Act 1951, the Animals (Cruel Poisons) Act 1962, the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, or the Breeding of Dogs Act 1973, or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006, the court by which he is convicted may cancel any licence held by him under this Act, and may, whether or not he is the holder of such a licence, disqualify him from keeping any dangerous wild animal for such period as the court thinks fit.

(3) A court which has ordered the cancellation of a person's licence, or his disqualification, in pursuance of the last foregoing subsection may, if it thinks fit, suspend the operation of the order pending an appeal.

Interpretation

7.— (1) Subject to subsection (2) of this section, for the purposes of this Act a person is a keeper of an animal if he has it in his possession; and if at any time an animal ceases to be in the possession of a person, any person who immediately before that time was a keeper thereof by virtue of the preceding provisions of this subsection continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of those provisions.

(2) Where an animal is in the possession of any person for the purpose of—

- (a) preventing it from causing damage,
- (b) restoring it to its owner,
- (c) undergoing veterinary treatment, or
- (d) being transported on behalf of another person,

the person having such possession shall not by virtue only of that possession be treated for the purposes of this Act as a keeper of the animal.

(3) In this Act expressions cognate with “keeper” shall be construed in accordance with subsections (1) and (2) of this section.

(4) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“circus” includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres;

“damage” includes the death of, or injury to, any person;

“dangerous wild animal” means any animal of a kind for the time being specified in the first column of the Schedule to this Act;

“local authority” means in relation to England a district council, a London borough council or the Common Council of the City of London, in relation to Wales, a county council or county borough council, and, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“premises” includes any place;

“veterinary practitioner” means a person who is for the time being registered in the supplementary veterinary register;

“veterinary surgeon” means a person who is for the time being registered in the register of veterinary surgeons.

(5) The second column of the Schedule to this Act is included by way of explanation only; in the event of any dispute or proceedings, only the first column is to be taken into account.

Power of Secretary of State to modify the Schedule

8.— (1) If the Secretary of State is satisfied that the scope of this Act should be extended so as to include animals of a kind not for the time being specified in the Schedule to this Act or diminished so as to exclude animals of a kind for the time being specified in that Schedule, he may by order make the necessary modifications to that Schedule and any such order may be revoked by a subsequent order under this subsection.

(2) The power conferred by the foregoing subsection on the Secretary of State shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Protection of existing keepers

9. Notwithstanding anything in this Act, a person who immediately before the date of the commencement of this Act was keeping a dangerous wild animal at any premises and who is not disqualified as mentioned in section 6(2) of this Act, shall be entitled to keep such animal at those premises without a licence under this Act—

(a) for the period of 90 days beginning with that date; and

(b) if before the expiration of that period he applies for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn.

Short title, commencement and extent

10.— (1) This Act may be cited as the Dangerous Wild Animals Act 1976.

(2) This Act shall come into operation at the expiration of a period of three months beginning with the date on which it is passed.

(3) This Act does not extend to Northern Ireland.

SCHEDULE

Section 7

KINDS OF DANGEROUS WILD ANIMALS

NOTE: See section 7(5) of this Act for the effect of the second column of this Schedule

<i>Scientific name of kind</i>	<i>Common name or names</i>
MAMMALS	
Marsupials	
Family Dasyuridae: The species <i>Sarcophilus laniarius</i> .	The Tasmanian devil.
Family Macropodidae: The species <i>Macropus fuliginosus</i> , <i>Macropus giganteus</i> , <i>Macropus robustus</i> and <i>Macropus rufus</i> .	The western and eastern grey kangaroos, the wallaroo and the red kangaroo.
Primates	
Family Cebidae: All species except those of the genera <i>Aotus</i> , <i>Callicebus</i> and <i>Saimiri</i> .	New-world monkeys (including capuchin, howler, saki, uacari, spider and woolly monkeys). Night monkeys (also known as owl monkeys), titi monkeys and squirrel monkeys are excepted.
Family Cercopithecidae: All species.	Old-world monkeys (including baboons, the drill, colobus monkeys, the gelada, guenons, langurs, leaf monkeys, macaques, the mandrill, mangabeys, the patas and proboscis monkeys and the talapoin).
Family Hominidae: All species except those of the genus <i>Homo</i> .	Anthropoid apes; chimpanzees, bonobos, orang-utans and gorillas.
Family Hylobatidae: All species.	Gibbons and Siamangs.
Family Indriidae: All species of the genera <i>Propithecus</i> and <i>Indri</i> (<i>Avahi laniger</i> is excepted).	Leaping lemurs (including the indri and sifakas). The woolly lemur is excepted.
Family Lemuridae: All species except those of the genus <i>Haplemur</i> .	Large lemurs. Bamboo or gentle lemurs are excepted.

Edentates	
Family Dasypodidae: The species <i>Priodontes maximus</i> .	The giant armadillo.
Family Myrmecophagidae: The species <i>Myrmecophaga tridactyla</i> .	The giant anteater.
Carnivores	
Family Canidae: All species except those of the genera <i>Alopex</i> , <i>Cerdocyon</i> , <i>Dusicyon</i> , <i>Otocyon</i> , <i>Pseudolopex</i> , <i>Urocyon</i> , <i>Vulpes</i> and <i>Nyctereutes</i> . The species <i>Canis familiaris</i> , other than the subspecies <i>Canis familiaris dingo</i> , is also excepted.	Wild dogs, wolves, jackals, the maned wolf, the bush dog and the dhole. Foxes, raccoon dogs and the domestic dog (but not the dingo) are excepted.
Family Felidae: All except— <ul style="list-style-type: none"> (a) the species <i>Felis silvestris</i>, <i>Otocolobus manul</i>, <i>Leopardus tigrinus</i>, <i>Oncifelis geoffroyi</i>, <i>Oncifelis guigna</i>, <i>Catopuma badia</i>, <i>Felis margarita</i>, <i>Felis nigripes</i>, <i>Prionailurus rubiginosus</i> and <i>Felis silvestris catus</i>; (b) a hybrid which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid of which— <ul style="list-style-type: none"> (i) one parent is <i>Felis silvestris catus</i>, and (ii) the other parent is a first generation hybrid of <i>Felis silvestris catus</i> and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)); (e) any cat which is descended exclusively from <i>Felis silvestris catus</i> and any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)). 	All cats including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval and tiger. The following are excepted: <ul style="list-style-type: none"> (a) the wild cat, the pallas cat, the little spotted cat, the Geoffroy's cat, the kodkod, the bay cat, the sand cat, the black-footed cat, the rusty-spotted cat and the domestic cat; (b) a hybrid cat which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid cat having as one parent a domestic cat and as the other parent a first generation hybrid of a domestic cat and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c); (e) any cat which is descended exclusively from a domestic cat and any one or more hybrids within paragraph (c).
Family Hyænidæ: All except the species <i>Proteles cristatus</i> .	Hyænas. The aardwolf is excepted.
Family Mustelidæ: All species of the genera <i>Amblonyx</i> , <i>Arctonyx</i> , <i>Aonyx</i> , <i>Enhydra</i> , <i>Lontra</i> , <i>Melogale</i> , <i>Mydaus</i> , <i>Pteronura</i> and <i>Taxidea</i> . The genus <i>Lutra</i> except the species <i>Lutra lutra</i> . The species <i>Eira barbara</i> , <i>Gulo gulo</i> , <i>Martes</i>	Badgers (except the Eurasian badger), otters (except the European otter) and the tayra, wolverine, fisher and ratel (otherwise known as the honey badger).

<i>pennanti</i> and <i>Mellivora capensis</i> .	
Family Ursidae: All species including the species <i>Ailuropoda melanoleuca</i> and <i>Ailurus fulgens</i> .	All bears including the giant panda and the red panda.
Family Viverridae: All of the genus <i>Civettictis</i> . All of the genus <i>Viverra</i> . The species <i>Cryptoprocta ferox</i> .	The African, large-spotted, Malay and Indian civets and the fossa.
Pinnipedes	
Family Odobenidae: All species.	The walrus.
Family Otariidae: All species.	Eared seals.
Family Phocidae: All species except <i>Phoca vitulina</i> and <i>Halichoerus grypus</i> .	True or earless seals. The common seal (or harbour seal) and grey seal are excepted.
Elephants	
Family Elephantidae: All species.	Elephants.
Aardvark	
Family Orycteropodidae: The species <i>Orycteropus afer</i> .	The aardvark.
Odd-toed ungulates	
Family Equidae: All species except <i>Equus asinus</i> and <i>Equus caballus</i> .	Asses, horses and zebras. The donkey and domestic horse are excepted.
Family Rhinocerotidae: All species.	Rhinoceroses.
Family Tapiridae: All species.	Tapirs.
Even-toed ungulates	
Family Antilocapridae: The species <i>Antilocapra americana</i> .	The pronghorn.
Family Bovidae: All species except any domestic form of the genera <i>Bos</i> , <i>Bubalus</i> , <i>Capra</i> and <i>Ovis</i> .	Antelopes, bison, buffalo, gazelles, goats and sheep. Domestic cattle, buffalo, goats and sheep are excepted.
Family Camelidae: All species of the genus <i>Camelus</i> .	Camels.
Family Cervidae: All species of the genera <i>Alces</i> and <i>Rangifer</i> , except any domestic form of the species <i>Rangifer tarandus</i> .	The moose or elk and the caribou or reindeer. The domestic reindeer is excepted.
Family Giraffidae: All species	The giraffe and the okapi.
Family Hippopotamidae: All species.	The hippopotamus and the pygmy hippopotamus.
Family Suidae: All species except any domestic form of the species <i>Sus scrofa</i> .	Old-world pigs (including the wild boar and the wart hog). The domestic pig is excepted.
Family Tayassuidae: All species.	New-world pigs (otherwise known as peccaries).

Hybrids	
Any hybrid of a kind of animal specified (other than by way of exception) in the foregoing provisions of this column where at least one parent is of a kind so specified, and any animal of which at least one parent is such a hybrid. This does not include an excepted hybrid of the Family <i>Felidae</i> .	Any mammalian hybrids with at least one parent of a specified kind, and any animal of which at least one parent is such a hybrid. This does not apply to excepted cat hybrids.
<u>BIRDS</u>	
Cassowaries	
Family <i>Casuariidae</i>: All species.	Cassowaries.
Ostrich	
Family <i>Struthionidae</i>: All species.	The ostrich.
<u>REPTILES</u>	
Crocodilians	
Family <i>Alligatoridae</i>: All species.	Alligators and caimans.
Family <i>Crocodylidae</i>: All species.	Crocodiles and the false gharial.
Family <i>Gavialidae</i>: All species.	The gharial (otherwise known as the gavial).
Lizards and snakes	
Family <i>Atractaspididae</i>: All species of the genus <i>Atractaspis</i>.	Burrowing asps, also known as mole or burrowing vipers and stiletto snakes.
Family <i>Colubridae</i>. All species of the genera <i>Malpolon</i> and <i>Thelotornis</i>. The species <i>Dispholidus typus</i>, <i>Rhabdophis subminiatus</i>, <i>Rhabdophis tigrinus</i>, <i>Elapomorphus lemniscatus</i>, <i>Philodryas olfersii</i>, <i>Tachymenis peruviana</i> and <i>Xenodon severus</i>.	Certain rear-fanged venomous snakes, Montpellier snakes and African vine snakes (otherwise known as African twig or bird snakes). The boomslang, the red-necked keelback, the yamakagashi (otherwise known as the Japanese tiger-snake), the Argentine black-headed snake, the South American green racer, the Peruvian racer and the Amazon false viper.
Family <i>Elapidae</i>: All species.	Certain front-fanged venomous snakes including cobras, coral snakes, kraits, mambas, whipsnakes and all Australian poisonous snakes (including the death adders).
Family <i>Hydrophiidae</i>: All species.	Sea snakes.
Family <i>Helodermatidae</i>: All species.	The gila monster and the (Mexican) beaded lizard.
Family <i>Viperidae</i>: All species.	Certain front-fanged venomous snakes (including adders, the barba amarilla, the bushmaster, the fer-de-lance, moccasins, rattlesnakes and vipers).
<u>INVERTEBRATES</u>	
Spiders	

Family Ctenidae: The genus <i>Phoneutria</i> .	Wandering spiders.
Family Hexathelidae: The genus <i>Atrax</i> .	The Sydney funnel-web spider and its close relatives.
Family Sicariidae: The genus <i>Loxosceles</i> .	Brown recluse spiders (otherwise known as violin spiders).
Family Theridiidae: The genus <i>Latrodectus</i> .	The widow spiders and close relatives.
Scorpions	
Family Buthidae: All species.	Buthid scorpions.
Family Hemioscorpiidae: The species <i>Hemiscorpius lepturus</i> .	Middle-Eastern thin-tailed scorpion.”

Annex F - Summary: Intervention & Options

Department /Agency: DEFRA	Title: Impact Assessment of Amending The Dangerous Wild Animals Act 1976 (“The Act”)	
Stage: Implementation	Version: 1	Date: December 2009
Related Publications: Consultation paper, draft amended Regulation, Summary of Responses, Accompanying Statement.		

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What is the problem under consideration? Why is government intervention necessary?

The Acts purpose is to protect the public from the threat posed by the private keeping of dangerous wild animals by way of a licensing regime administered and enforced by local authorities. There has been long-standing demand for reform of the Act from animal keeping organisations and other stakeholders who consider the legislation bureaucratic and not fit for purpose. Growing anecdotal evidence has suggested a high level of non-compliance and revising the Act to minimise burdens should increase acceptance and compliance with it.

What are the policy objectives and the intended effects?

- a) Extend the period of validity of a licence from a maximum of one calendar year to two years, effectively halving licence costs for keepers and reducing administrative burden on local authorities
- b) Provide that licences (other than in the case of licence renewals) will come into force immediately upon their being granted (rather than, as was previously the case, from either the date of grant or the beginning of the next following year). This will enable keepers to have a full two year licence rather than the licence expiring at year end, as now, irrespective of when the licence was issued).

What policy options have been considered? Please justify any preferred option.

Option 1 – do nothing

Option 2 – Reform the Act to minimise burdens whilst retaining proportionate public safety benefits and update guidance to local authorities.

Option 2 is the preferred option. Response to the 2004 public consultation found 100% of respondents were in favour of amending the Act and this option, bearing in mind Hampton Review recommendations, delivers reduced regulatory burden and additional benefits for stakeholders.

[details of discounted options can be found at Paragraph 4.1 in the Evidence Base]

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Four years from the time the Order comes into force.

Ministerial Sign-off For Implementation Impact Assessment:

The revisions to this IA have been reviewed and the overall approach to the cost-benefit is unchanged and therefore approved. It is considered that the IA represents a reasonable view of the likely costs, benefits and impacts of the preferred option.

Signed by the responsible Minister:

..... Date:.....

Summary: Analysis & Evidence

Policy Option: 2	Description: Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, update guidance to local authorities.
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There are no monetised costs.
	One-off (Transition)	Yrs	
	£ N/A		
	Average Annual Cost (excluding one-off)		
	£ -	3	Total Cost (PV) £ -
Other key non-monetised costs by 'main affected groups' There could be a minimal increase in risk to public safety, but there have been very few cases of escaped animals or animals causing damage.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' The key monetised benefits include £54,375 savings for keepers in application fees, £2,000 savings for keepers arising from less time completing applications and £5,000 for attending fewer inspections. These costs are averages per year, but reflect a doubling of the time period between renewal of licences.
	One-off	Yr	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
	£61,375	3	Total Benefit (PV) £229,313
Other key non-monetised benefits by 'main affected groups' There may be some cost savings to local authorities, but it is not clear if these will materialise or their potential magnitude. The response rate from local authorities to a request for information in the original consultation was low.			

Key Assumptions/Sensitivities/Risks The application fees are based on survey data of local authority charges and estimated vets fees. The time savings for keepers are based on half an hour spent completing each application and an hour and a quarter attending inspections. There are assumed to be 375 licences issued a year, based on past trends. The appraisal period is four years.

Price Base Year 2007	Time Period Years 4	Net Benefit Range (NPV) £ -	NET BENEFIT (NPV Best estimate) £229,313
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What is the geographic coverage of the policy/option?		England and Wales			
On what date will the policy be implemented?		March 2010			
Which organisation(s) will enforce the policy?		Defra/Local authorities			
What is the total annual cost of enforcement for these organisations?		£ Not available			
Does enforcement comply with Hampton principles?		Yes			
Will implementation go beyond minimum EU requirements?		No			
What is the value of the proposed offsetting measure per year?		£ N/A			
What is the value of changes in greenhouse gas emissions?		£ Negligible if any			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation (excluding one-off) (Note: estimated annual saving per applicant)		Micro	Small - £164	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£	Decrease	£ 6647
		Net	£ -6647

Key: Annual costs and benefits: Constant Prices (Net) Present Value

1. Background

- 1.1 The Dangerous Wild Animals Act 1976 (“the Act”) came about following the fashion in the 1970s for keeping exotic animals, such as lions and tigers. Its primary purpose is to seek to protect the public from risks arising from the keeping of dangerous wild animals. It is intended to protect the public at large by regulating the keeping of dangerous wild animals rather than the animal keepers themselves. The Act also contains some ancillary welfare provisions.
- 1.2 The Act does not contain a definition for a dangerous wild animal. Instead it lists in a Schedule those animals that are subject to the provisions of the Act. It includes animals such as tigers, lions, chimpanzees, gorillas, crocodiles, venomous snakes and spiders. Local authorities are responsible for administering and enforcing the Act and anyone wishing to keep an animal listed in the Schedule must obtain a licence from his or her local authority.
- 1.3 There has been long-standing demand for reform of the Act from animal keeping organisations and growing anecdotal evidence has suggested a high level of non-compliance with the Act. A government-funded study by the International Zoo Veterinary Group (IZVG), published in 2001, examined the Act’s effectiveness. IZVG reported that the Act had been broadly effective inasmuch as there had been no reported serious injuries to the public.
- 1.4 There was however compelling circumstantial evidence to support claims of significant levels of non-compliance. They pointed to the view of many keepers that the controls extended to non-dangerous animals, to some species which are now farmed in significant numbers and widespread disparities in licence and inspection fees set by local authorities. They also identified weaknesses in the enforcement of the Act, leading to fears of widespread flouting of its provisions, and hearsay evidence that some local authorities were adopting blanket policies to refuse all licence applications.
- 1.5 It was considered that current legislation does not adopt a proportionate approach to the regulation of dangerous wild animals based on risk to the public. In addition it is not consistent with other relevant legislation relating to public safety and enforcement and inspection regime is not consistent with Hampton principles. There has been formal consultation with stakeholders in developing the current proposals.

2. Consultation

- 2.1 The review of the Act has been underway since 2000 and there has been wide consultation of stakeholders throughout this process. The latest consultation took place in 2008.

- 2.2 The review began with the consultant's study of the effectiveness of the Act (undertaken by IZVG), which itself included surveying the views of stakeholders.
- 2.3 Following an initial consultation on this report in 2001/2, Defra formulated proposals for addressing the shortcomings of the Act and undertook a public consultation³ exercise in Autumn 2004. 100% of respondents supported the broad proposal that the Act required revision to improve its effectiveness, bring it up to date and make it fit for purpose. However, 98% of respondents had caveats about some of the detail of those proposals (some arguing for less regulation and others for more).
- 2.4 Following the consultation in 2004, the Government has further considered the reform of the Act. This consideration has particularly taken into account the wider regulatory and policy framework relevant to keeping of dangerous wild animals. It became clear that the situation had developed since introduction of the Act in 1976 and there were other potential options to tackle problems. Since 1976, there is also a greatly increased emphasis that regulation should be more focused on risk and seek to minimise regulatory burdens in line with 'Better Regulation' policies. The new proposals, set out in the 2008 consultation, seek to reduce the level of regulatory burden on both local authorities and animal keepers, with those adopting and maintaining higher standards benefitting most from the deregulation exercise.
- 2.5 This process has led to development of new, more focused, proposals for regulatory reform of the Act. In addition to these proposals detailed below, we will make comprehensive guidance available to keepers and local authorities. Through the latest consultation process, by way of questionnaires contained therein, we sought input from stakeholders which will hopefully ensure a shared sense of ownership of the guidance and ensure that it is fit for purpose and delivers what is required. In addition, a small working group of main stakeholders has been convened to help compile the guidance to ensure those areas of most concern to interested parties are addressed.
- 2.6 This review process has enabled wide consultation with all the stakeholder groups, local authorities and many individuals with an interest, ensuring ample opportunity to feed views in to Government. Stakeholders views tend to be divided into two opposing camps – those with an interest in keeping animals desiring 'lighter touch' regulation and those concerned primarily with animal welfare desiring tighter controls aimed at delivering welfare objectives.

3. Sectors and groups affected

- 3.1 The proposals will affect private animal keepers, local authorities and potentially the wider public in England and Wales. Private animal

keepers are generally individuals scattered throughout society. The Act also applies to those who are farming species which are considered to be dangerous wild animals and hence included on the Act's Schedule. Since the Act came into force, a farming industry has developed in several of the listed species such as wild boar and ostrich.

- 3.2 The Act exempts zoos, circuses, licensed pet shops and also designated establishments within the meaning of the Animals (Scientific Procedures) Act 1986. These establishments are all regulated under their own legislation.

4. Options

- 4.1 In all five options were identified during the 2004 consultation:

- Do nothing (retain the status quo)
- Update the guidance to local authorities and encourage improved enforcement of the existing legislation, but undertake no legislative changes
- Repeal the Act and rely on self regulation
- Amend the Act to make it more robust, albeit with an increased regulatory burden (as envisaged in Defra's previous proposals, published in June 2004)
- Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, as per the Government's current proposals, and update the guidance to local authorities. [This is the preferred option, referred to as Option 2 in this IA]

- 4.2 As noted in paragraph 2.3 above, 100% of respondents wanted to see a revision of the Act to improve its effectiveness and taking into account the findings of the Hampton Report this left us with the options either to maintain the status quo (the first bullet point above) or pursue reform of the Act and update guidance to local authorities (the fifth bullet point above). **We are therefore taking forward the latter and preferred option which is now referred to as Option 2.**

5. The objectives

- 5.1 The following proposals are intended to be in line with Government's intention to deregulate where desirable and regulate with as light a touch as possible. It is also intended that the principle of risk assessment should be able to be entrenched throughout the regulatory system, so that the burden of enforcement falls most on highest-risk areas and least on those with the best records of compliance.
- 5.2 Unless the Act's shortcomings can be addressed and the Act made credible and effective, the risk of non-compliance grows and the possible threat to public safety becomes more real.
- 5.3 We therefore proposed reform of the legislation under Section 1 of the Legislative and Regulatory Reform Act 2006 to provide an improved and

better focused licensing regime which will retain the public safety benefits, whilst reducing some level of the burden on local authorities and keepers.

6. The proposals

6.1 The proposals considered under the preferred option, Option 2, and contained in the 2008 consultation are :

a) to extend the period of validity of a licence from a maximum of one calendar year to two years;

b) to provide that licences (other than in the case of licence renewals) will come into force immediately upon their being granted (rather than, as was previously the case, from either the date of grant or the beginning of the next following year).

6.2 The proposal to **remove the welfare provisions contained in the Act** (Proposal C in the consultation) will not now be pursued. It was originally considered that there was no requirement for the Act to be particularly concerned with addressing welfare issues. This view has subsequently been revised following consideration of responses to the latest consultation, further consideration of the issues and advice from lawyers with regard to what actions can be taken via the Legislative Reform Order process.

6.3 A further proposal (Proposal B in the consultation), ***to remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second - similar, licence***, will also not be pursued. The proposal was included in the Draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009 when it was laid, under an affirmative resolution procedure, in June 2009. The draft Order was approved by the House of Commons Regulatory Reform Committee, however the House of Lords Delegated Powers and Regulatory Reform Committee (DPRRC) raised concerns that the proposal would remove necessary protections currently contained in the Act.

6.4 In order to address the concerns of the DPRRC with regard to the proposal officials undertook a further consultation of all local authorities in England and Wales seeking further evidence on their likely response to the proposal and its intentions. Consultees were advised to consider the proposal in tandem with the one to increase the life of a licence to two years (which would halve the frequency of inspections (on renewal) in any event).

6.5 Some 61 local authorities responded and it appears, and this was not something that was apparent following the earlier main consultation, that the desire within local authorities for flexibility regarding the requirement to inspect is fairly low and no evidence that a more targeted inspection programme would increase the levels of enforcement and protection for which the DWAA provides. On this basis Defra officials decided there would be little mileage in removing the mandatory requirement for inspections and

the Defra Minister agreed to a recommendation to drop this particular proposal from the draft Order.

7. Benefits and costs of the options

7.1 This section sets out the analysis of benefits and costs of these two options.

Option 1 - Do nothing (retain the status quo)

7.2 There are no substantive benefits to this option. It would not address the shortcomings of the Act, the fact that it is held in low regard and there is anecdotal evidence of non-compliance, which have become apparent through the IZVG report and previous public consultation responses. Since this is the baseline option, the additional costs and benefits of this option are zero. The additional costs and benefits of Option 2 are compared to this baseline.

Option 2 - Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, as per the Government's current proposals, and update the guidance to local authorities

7.3 This approach is the one proposed in the last consultation paper and detailed above in Paragraph 6.1.

7.4 It would be proportionate for the enforcement authority to know of the existence and location of dangerous wild animals given the potential risk that they pose and to ensure that they are kept securely. It also allows for other conditions to be applied if there were particular concerns or problems.

7.5 Maintaining a licensing system enables the Act to continue to be self-financing (as with the current licensing system) but by extending the validity of licences to two years from the date of issue it would mean a lowering of costs to both keepers and local authorities than retaining the current licensing system as it is. The requirement to licence and inspect animals is sufficiently flexible to allow a proportionate level of enforcement action, such as risk-based inspection and focus on new licencees.

7.6 Other relevant regulatory regimes would still potentially be available if appropriate in the event of problems (e.g. statutory nuisances, ASBOs etc). However, unlike if the Act were entirely repealed, these would only be required as back up or to cover problems from less dangerous non-controlled species.

7.7 This option could assist in the enforcement of other related legislation such as the Animal Welfare Act 2006 (the "AWA"), where local authorities also have an enforcement and inspection role. Any animal welfare concerns noted on inspection could be passed on to the enforcement authorities responsible for animal welfare legislation and inspections under the AWA carried out by local authorities could be coordinated with inspections under the Act where possible.

Benefits

Application fees

- 7.8 The Act states that licence applications shall be *'accompanied by such fee as the local authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application)'*. Local authorities are therefore responsible for setting the fees which will be charged so that they can recover their overall costs.
- 7.9 The IZVG study in 2001 obtained information on charges for licence applications under the Act made by 180 local authorities. The way the licence fees are calculated varies between the local authorities. Most charge a flat fee, either including or excluding vet fees. Others have developed a tiered system, charging more for an initial licence than a renewed licence, or charging more to license a large collection of animals than for an individual animal. It also appeared that some authorities provided a reduced fee to animal rescue facilities.

- **Average fee charged (based on 180 LAs) £131**

Based on this information, in 2000, on average an applicant might expect a total fee of between £100 and £150 for annual licensing. However, IZVG's survey also revealed that the lowest fee charged was £25 plus vet's fees and the highest fee charged was £525. Responses to the public consultation in 2004 included reports of local authority charges for licences ranging from £46.50 to an unconfirmed report of over £1,000.

- 7.10 To provide more recent figures Defra collated information on licence fees from local authorities via a questionnaire contained in the last consultation in 2008. 12 authorities responded and:

- **Average fee charged (based on 12 LAs) £185**

In 2007 the smallest charge was £59 and the highest was £402, however this was a small sample given the number of local authorities there are and it is certain that some will charge more for licences.

- 7.11 In addition to the figures received on licence fees we sought similar information on vets fees (the average licence fee referred to above does not include vets fees). The average fee, based on the returned questionnaires, was £105. Therefore in 2007, including vets fees, we estimate that on average an applicant might expect a total fee in the region of £290 for annual licensing. There will, however, be variation between different local authorities.

Application time

- 7.12 As well as incurring the application fee, keepers also face the cost of their time in completing the application. For the purposes of completing the Impact Assessment we have assumed an average application completion

time of 30 minutes and, using the population of 375 (based on the survey of keepers in 2000) this gives an indicative collective administrative burden for keepers of £4,000 for form completion. The proposed simplification detailed in the proposals – to increase the licence period validity to two years – would lead to a reduction in burden of 50%, some £2,000. See Section 8 for further detail on the administrative burdens.

Cost savings

.13 The benefits of the preferred option can be shown as the estimated cost savings outlined in Table 1. Reforming in this way means licences only need to be applied for every two years. This halves the average annual costs in collective application fees to £54,375, giving a saving per applicant of £145 per year. Over an appraisal period of 4 years the total cost saving will provide a present value benefit of approximately £203,159. This figure increases to £229,313 when savings from reduced application filling and inspection attendance are factored in, details can be found in Section 8 below.

7.14 This may be an underestimate, as there could be cost savings to local authorities from less frequent licence processing and inspections. However, this is likely to be to a limited extent, as the general principle is to aim for full cost recovery, so local authorities will face fewer costs, but with correspondingly fewer application fees. The divergence of fee structure between local authorities makes this difficult to assess, plus fees may change after policy implementation. Public liability insurance is also excluded as this will vary with the animal kept and the numbers involved, but would remain constant under both options.

7.15 The cost comparisons rely on the following assumptions:

- The licence fee, including inspection costs, is £290 – which is the current average
- The new life of a licence would be 24 months
- Licence applications take an average of half an hour of keepers time
- Inspections take an average of an hour and a quarter of keepers time
- The licence costs would remain the same following amendments to the existing Act
- The number of licences issued per year would be 375 – based on the IZVG's survey in 2000
- No “new” applicants apply – or this is netted off with the loss of existing applicants. In reality there may be some licences issued in intermediary years e.g. 2010

- A discount rate of 3.5%.

Table 1: Total cost of licences to keepers, £

	2009	2010	2011	2012	Total
Option 1					
Application fees	108,750	108,750	108,750	108,750	435,000
Application time	4,000	4,000	4,000	4,000	16,000
Inspection time	10,000	10,000	10,000	10,000	40,000
Option 2					
Application fees	108,750		108,750		217,500
Application time	4,000		4,000		8,000
Inspection time	10,000		10,000		20,000
Cost savings of Option 2	0	122,750	0	122,750	245,500
PV of cost savings	0	118,599	0	110,714	229,313

[It should be noted that a licence could be issued for more than one animal]

Costs

7.16 The potential for increased risk to public safety (paragraphs 7.8 and 7.9) following the proposed amendments is hard to quantify. There have been very few reported cases of dangerous wild animals escaping and we don't anticipate it changing significantly. It is to the owners' benefit to ensure that their, sometimes costly, animals are housed in secure accommodation so they do not escape and owners have to satisfy the local authority that accommodation is secure in order to obtain a licence.

NPV

7.17 The benefits of the preferred option are very likely to outweigh any costs. Benefits will be provided through cost savings to both keepers and possibly local authorities. No costs can be monetised, but the only potential cost would appear to be the possibility of increased risk to the public and this has been addressed in the previous paragraph.

8. Administrative burden on keepers

Applications

8.1 As considered in the cost benefit analysis there are administrative costs involved for keepers i.e. the time taken (and ensuing cost) of actually completing the application form. The reduction in administrative burden is estimated to be £2000 per year on average. We have assumed an application completion time of half an hour but we have little information on the overall costs to keepers in this respect.

8.2 The Act's licensing regime is administered by over 400 local authorities and different authorities place differing weights of importance to this piece of legislation. Subsequently it is very difficult to gauge how proactive these

authorities are in respect to licensing, including the amount of guidance they produce about the Act or about the completion of the application. In addition there is no standard application form, subsequently the information requested and the length of time for keepers to complete the forms is not known.

Inspections

- 8.3 There is another burden on keepers, that of being available and accompanying inspectors when premises are required to be inspected. Currently inspections are required when someone first applies for a licence and at the time of renewal (currently on a yearly basis). From responses to the consultation we can take an average time of an hour and a quarter for an inspection and, using the population of 375 (based on the survey of keepers in 2000), this gives an indicative collective administrative burden for keepers of £10,000 for attending inspections each year.
- 8.4 The proposed simplification detailed in the proposals – to increase the licence period validity to two years – would lead to a reduction in burden of 50%, giving an average saving of £5,000 per year. This would give an overall saving per applicant, on application fees, application completion time and reduced inspection time at licence issue, of £164 per year. Over an appraisal period of 4 years the total cost saving will provide a present value collective benefit of approximately £229,313.
- 8.5 The impact on the Admin Burdens Baseline, to include those savings identified above in reduced time completing applications and attending inspections, equates to a decrease of £7,000 – reduced further, to allow for inflation between 2005 and 2007 – to a figure of £6647 as shown at the foot of page 2 of this impact assessment.

Compliance

- 8.6 The “new burden” or costs to keepers who are currently acting outside of the law and now decide to comply and seek licences for their animals have not been included in this assessment.

9. Competition Assessment

- 9.1 The intended proposals are unlikely to affect competition between businesses involved in selling or keeping of dangerous wild animals. The provisions will apply across the board and, if anything, are likely to aid smaller organisations more, as licence fees may represent a proportionately larger outgoing for them.

10. Small Business Impact Test

- 10.1 The legislation is primarily aimed at private animal keepers and exempts many commercial keepers such as pet shops, zoos, circuses and scientific establishments. However, some small businesses such as farms, are affected by the legislation. Appropriate representative organisations have

been consulted during the Act's review and have consistently supported revision of the legislation to make it less burdensome and the new proposals will help reduce the administrative burden on them.

- 10.2 It is confidently expected that small businesses will welcome the changes that will make the Act more credible and proportionate, and which aim to reduce burdens to the minimum consistent with meeting the legislation's objectives.

11. Enforcement, Sanctions and Monitoring

Enforcement

- 11.1 Local authorities will remain responsible for enforcement of the legislation and the most recent consultation exercise (regarding the proposal to give local authorities more discretion with regard to inspections, subsequently dropped as there was no appetite within the authorities for such discretion) has highlighted that they take their responsibilities with regard to the Act seriously.
- 11.2 Reform of the legislation should assist with buy-in from keepers, encouraging an improved level of compliance. Clubs and keeper organisations are also more likely to require compliance with the Act as a condition of membership if the Act is more credible. This level of self-regulation will support local authority enforcement.
- 11.3 The 2007 revision of the Schedule of species (where some 30 plus species were removed from control) will also assist by ensuring that only those species deemed sufficiently dangerous to warrant regulation under the Act are listed.

Sanctions

- 11.4 The general requirement to be licensed to keep dangerous wild animals will be retained along with all the other current provisions of the Act including; the offences, penalties, existing standard licence conditions, and powers to seize unlawfully held dangerous animals. This will ensure that the necessary protections of the Act are retained but no further sanctions imposed.

Monitoring

- 11.5 A review of the new provisions, to see whether they are meeting the original objective to reduce administrative burdens and improve compliance with the Act, will be undertaken after four years. This will allow time for the new process to bed in over two licensing periods. It is likely that the questionnaires contained in the 2008 consultation package will again be used and comparisons made between each of the three year periods i.e. pre-amendment to the Act and post-amendment. Defra will lead on this exercise.
- 11.6 Defra will also seek feedback from affected stakeholders, by electronic means through amendment of relevant web pages, to gauge the affects,

positive or negative, of the new provisions and will also seek comment on the published guidance for local authorities which will be produced. The guidance is likely to be a “living document” which can be revised and updated where circumstances require it.

12. Implementation and delivery plan

12.1 These changes will be implemented by a super-affirmative Statutory Instrument (SI) which Defra will be responsible for preparing. The outline timetable is below;

- Draft Order laid – December 2009
- Statutory Instrument comes into force – March 2010
- Guidance published for local authorities - April 2010

13. Post-implementation review

13.1 The local authorities and other key stakeholders, such as the RSPCA and keeper groups, will want to monitor the effectiveness of any new legislation. We will need to consider how best to evaluate it once it has had time to bed down (and local authorities have had the opportunity to come to grips with the new guidance), but will commit to a review after four years. The number of licences issued by local authorities, as well as their geographic spread, (possibly reflecting increased compliance), the number of prosecutions and public awareness of the controls are all potential measures.

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Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

Outcome of Impact Tests not referred to in the Evidence Base

Legal Aid

The proposals do not create any new criminal sanctions or civil penalties, those currently contained in the Act will be retained.

Sustainable Development

The proposals will have very little impact on sustainable development.

Carbon Impact Assessment

The proposals will have no significant effect on carbon emissions.

Other Environmental

The proposals have little or no implications in relation to climate change, waste management, air quality, landscapes, water and floods, habitat or noise pollution.

Health Impact Assessment

The proposals will not directly impact on health or well being and will not result in health inequalities.

Race /Disability/Gender

There are no limitations on meeting the requirements of the proposals on the grounds of race, disability or gender. The proposals do not impose any restriction or involve any requirement with which a person of a particular racial background, disability or gender would find it difficult to comply. Conditions apply equally to all individuals and businesses involved in the activities covered by the proposals.

Human Rights

The proposals are consistent with the Human Rights Act 1998.

Rural Proofing

The proposals will not have a different impact in rural areas.