

# The Animal Welfare (Licensing of Activities involving animals) (Scotland) Regulations 2021

## WHAT ARE THE REGULATIONS?

- The Animal Welfare (Licensing of Activities involving animals) (Scotland) Regulations came into force on 1 September 2021.
- They replace previous legislation covering pet sales and dog breeding and introduce new licensing requirements for cat and rabbit breeders, animal welfare establishments (animal sanctuaries and rehoming centres) and other pet rehoming activities, subject to operators meeting the licensing threshold for each activity.
- These regulations apply in Scotland only (except rehoming activities from out with Scotland as noted below).

## WHO ARE THE LICENSING AUTHORITY?

- Under the Regulations local authorities are, with one exception, the licensing authority.
- The exception applies in respect to any licence application made in connection with the activity of rehoming animals as pets in Scotland by persons that neither reside or have a place of business in Scotland. In such circumstances the licensing authority is the Scottish Ministers.
- The Scottish SPCA has offered to assist local authorities with the inspection of animal welfare establishments (animal sanctuaries and rehoming centres), excluding, of course, its own premises. Any local authority wishing to take up this offer has been asked to contact the Scottish SPCA directly on **03000 999 999** or to complete our contact us page via our website.

## WHO REQUIRES A LICENCE?

These regulations apply to anyone who is:

- Selling animals as pets in the course of a business.
- Engaging in animal rehoming activities (other than operating an animal welfare establishment)
- Operators of animal welfare establishments (AWEs)
- Breeding dogs – 3 or more litters of puppies in any 12 month period
- Breeding cats – 3 or more litters of kittens in any 12 month period
- Breeding rabbits – 6 or more litters of kits in any 12 month period



Local authorities must publish and maintain a register of all those holding a licence under these regulations to enable prospective buyers of pet animals to quickly and easily check whether a breeder or seller that they are considering buying from is licensed by the licensing authority they operate from.

Under the Regulations a local authority can, without the consent of the licence holder, suspend, vary or revoke a licence granted if:

- It transpires that the licence holder has provided false or misleading information.
- The licence holder has failed to comply with any of the conditions of their licence or with other aspects of the regulations.
- It considers it necessary to protect the welfare of an animal.

The regulations specify a number of general (welfare and animal husbandry) conditions that, regardless of which of the licensable activities is being carried out, apply to all licences issued by a local authority (the “general conditions”). The regulations also set out conditions that are specific to the various licensable activities.

## WHAT IS AN ANIMAL WELFARE ESTABLISHMENT (AWE)?

An AWE is defined in the Regulations as “a place or places in Scotland where relevant animals that have been abandoned or otherwise separated from their keeper including as a result of a relevant relinquishment or a relevant seizure, or sick, injured or captured animals that were previously living in a wild state are kept for their care”. Essentially, AWEs will, for the most part, generally fall into one of two general categories - animal rehoming centres or animal sanctuaries.

## WHAT ARE THE PENALTIES?

- Licence holders will commit an offence if they fail to comply with the general or relevant specific licence conditions.
- Licence holders will not commit a criminal offence by reason of breaching any of the licence conditions provided for in paragraph 3 of schedule 6, paragraph 3 of schedule 7 and paragraph 3 of schedule 8 (maximum number of breeding female animals). Whilst failing to comply with those particular conditions would not be a criminal offence, it would represent a breach of the licence and accordingly might result in suspension, variation or revocation of the licence.
- Licence holders will not commit a criminal offence if they fail to comply with an additional licence condition attached to the licence by the local authority under regulation 6(5) of the Regulations. Whilst failing to comply with such a condition would not constitute a criminal offence, it would represent a breach of the licence and accordingly might result in suspension, variation or revocation of the licence.
- It is a criminal offence to undertake a licensable activity without an appropriate licence from the local authority.
- It is a criminal offence to provide to an inspector information required by or under the Regulations which the person knows, or ought reasonably to have known, is to a material extent false or misleading.
- It is a criminal offence to fail to comply with any reasonable request from an inspector to facilitate the identification and examination of an animal and the taking of samples (including restraint of any animal where requested by an inspector).

### ANIMAL REHOMING CENTRE



- It is a criminal offence to intentionally obstruct any inspector appointed to enforce the regulations in the exercise of any powers conferred on them.
- It is a criminal offence for the purpose of obtaining or holding a licence—
  - to make a statement required by or under the Regulations to a local authority (of someone acting on its behalf) which the person knows, or ought reasonably to have known, is to a material extent false or misleading, or
  - recklessly to make a statement required by or under the Regulations to the local authority (or somebody acting on its behalf) which is to a material extent false or misleading.
- A person who breaches a licence condition (where this is a criminal offence) is liable, on summary conviction only, to a fine not exceeding £5,000.
- A person who commits any other criminal offence under the Regulations is liable to a fine not exceeding £40,000 or to imprisonment for a term not exceeding 12 months (or both).
- The Regulations make provision for any unexpired licences granted under the Licensing of Animal Dealers (Young Cats and Dogs) (Scotland) Regulations 2009 to continue in force for the remainder of their term. Holders of such a licence must continue to comply with the requirements of the 2009 Regulations until expiry of the licence granted.
- Additionally, any holder of a licence granted by a local authority under The Breeding of Dogs Act 1973 or The Pet Animals Act 1951 and which remains in force on 1 September 2021 (the coming into force date of the Regulations) does not commit the offence of operating without a licence under regulation 3 of the Regulations. Upon the expiry of any such licence issued under either Act, a new licence will be required under the Regulations should the individual concerned wish to continue engaging in either activity.

## HOW WILL PEOPLE APPLY FOR A LICENCE?

- Local authorities must provide a clear application process for those wishing to apply for a licence.
- Local authorities can charge a fee for the consideration of an application for a licence. A fee may also be charged for the renewal or varying of a licence and for any inspection undertaken.
- Local authorities may also charge a fee for any costs incurred in respect to enforcement action taken against a licence holder which, again, can include the cost of any inspection.
- In setting its fees local authorities must ensure that the fees charged do not exceed the reasonable cost of administering and enforcing the licensing requirements and it should be able to be demonstrated how fee levels have been calculated.
- When setting the fees for animal welfare establishments the Scottish Ministers would encourage local authorities to recognise that the vast majority of animal welfare establishments are run by charities. These should be regarded as being for the wider public good given wider society's wish to protect animals from suffering and improve animal welfare. Accordingly, local authorities are encouraged to do all they can to minimise the cost of licensing for these particular facilities.
- The Regulations allow for licence holders or licence applicants who disagree with the decision of a licensing authority to appeal to the sheriff.
- A licence can be granted for a period of one, two or three years.

