

*Draft Regulations laid before the Scottish Parliament under section 51(3) of the Animal Health and Welfare (Scotland) Act 2006 for approval by resolution of the Scottish Parliament.*

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## DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2008 No.**

### **ANIMALS**

#### **ANIMAL WELFARE**

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

*Made* - - - - 2008

*Coming into force* - - 1st November 2008

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 26(1), (2) and (3), 27(1), (3), (4), (5), (6), (7) and (8) of the Animal Health and Welfare (Scotland) Act 2006<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with sections 26(5) and 27(9) of that Act, they have consulted with such persons appearing to them to represent relevant interests and such other persons as they consider appropriate.

In accordance with section 51(3) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

#### **Citation and commencement**

1. These Regulations may be cited as the Licensing of Animal Dealers (Young Cats and Dogs) (Scotland) Regulations 2008 and come into force on 1st November 2008.

#### **Interpretation**

2.—(1) In these Regulations—

“licence holder” means a person who is the holder of a licence issued under these Regulations;

“licensing authority” means a local authority;

“local authority” means the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(2)</sup> for the area in which an applicant or licence holder has their premises in Scotland, or, where the applicant or licence holder does not have premises in Scotland, the City of Edinburgh Council; and

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(1) 2006 asp 11.

(2) 1994 c. 39.

“veterinary surgeon” means a person who is registered in the register of veterinary surgeons or the supplementary veterinary register provided for under sections 2 and 8 of the Veterinary Surgeons Act 1966<sup>(3)</sup>.

(2) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication as defined in the Electronic Communications Act 2000<sup>(4)</sup> which has been recorded and is consequently capable of reproduction.

(3) An electronic communication may only be sent to a person if that person has consented in writing to the use of that method of communication and transmission is to an e mail address provided by the recipient.

(4) An electronic communication shall be taken to be received on the day after the day of its transmission.

### **Persons who are required to hold a licence**

**3.—**(1) No person may sell a cat or dog which is less than 84 days old within 60 days of taking ownership, possession or control of that animal except under the authority of a licence issued under regulation 8.

(2) Paragraph (1) does not apply to—

- (a) any person who sells no more than 2 such animals in any 12 month period; and
- (b) a holder of a licence issued under section 1(2) of the Pet Animals Act 1951<sup>(5)</sup>.

### **Animals to be kept separate**

**4.—**(1) Any—

- (a) licence holder;
- (b) holder of a licence for a rearing establishment for dogs issued under section 1(2) of the Breeding of Dogs Act 1973<sup>(6)</sup>; or
- (c) holder of a licence issued under section 1(2) of the Pet Animals Act 1951,

who takes ownership, possession or control of one or more cats or dogs which are less than 84 days old at the date of taking ownership, possession or control must ensure that animal or those animals are kept separate from all other animals, at the address of the premises on the licence, for a period of not less than 10 days from the date of the animal's or animals' arrival at the premises.

(2) Paragraph (1) does not apply where the licence holder does not have premises in Scotland and sells the animal or animals described in paragraph (1) to—

- (a) a holder of a licence for a rearing establishment for dogs issued under section 1(2) of the Breeding of Dogs Act 1973;
- (b) holder of a licence issued under section 1(2) of the Pet Animals Act 1951; or
- (c) another licence holder.

(3) Any person who contravenes or fails to comply with any provision of this regulation is guilty of an offence.

(3) 1966 c. 36. Section 2 was amended by S.I.2003/2919.

(4) 2000 c. 7; as amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(5) 1951 c. 35. Section 1 was amended by S.S.I. 2006/536, Schedule 1, paragraph 2.

(6) 1973 c. 60; amended by the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11), sections 1, 2, 3, 10 and the Schedule, S.I. 1999/3321, the Animal Welfare Act 2006 (c. 45), Schedule 3, paragraph 7, S.I. 2006/3407 and S.S.I. 2006/536.

## Applications for licences

5.—(1) The licensing authority must consider an application for a licence where—

- (a) the application is made to the authority; and
- (b) the required fee has been paid.

(2) The licensing authority must not consider an application from a person who is for the time being subject to an order for disqualification under—

- (a) section 1(1) of the Protection of Animals (Amendment) Act 1954<sup>(7)</sup>;
- (b) section 3(3) of the Animal Boarding Establishments Act 1963<sup>(8)</sup>;
- (c) section 3(3)(b) or (c) of the Breeding of Dogs Act 1973<sup>(9)</sup>;
- (d) section 5(3) of the Pet Animals Act 1951<sup>(10)</sup>;
- (e) section 28F(1) and (2) of the Animal Health Act 1981<sup>(11)</sup>;
- (f) section 34(1), (2), (3) and (4) of the Animal Welfare Act 2006<sup>(12)</sup>;
- (g) section 40(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006; or
- (h) regulation 17.

## Payment of fee

6. The licensing authority must impose a reasonable fee equivalent to the amount of costs and expenses incurred in processing an application for a licence or renewal of a licence.

## Consideration of applications for licences

7.—(1) When considering whether to grant or refuse a licence, but, without prejudice to its discretion to refuse a licence on other grounds, the licensing authority must in particular have regard to the need for securing—

- (a) that any cat or dog in the possession, control or ownership of the applicant or licence holder must at all times be kept in accommodation suitable as respects construction, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness;
- (b) that any such cat or dog must be adequately supplied with suitable food, drink and bedding material, adequately exercised and visited at suitable intervals;
- (c) that all reasonable precautions must be taken to prevent and control the spread among such cats and dogs of infectious or contagious diseases;
- (d) that appropriate steps must be taken for the protection of any such cat or dog in the case of fire or other emergency; and
- (e) that all appropriate steps must be taken to secure that any such cat or dog will be adequately supplied with suitable food, drink and bedding material, and adequately exercised, when being transported by or on behalf of the applicant.

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(7) 1954 c. 40; amended by the Animal Welfare Act 2006 (c. 45), Schedule 4.

(8) 1963 c. 43; amended by the Criminal Justice Act 2003 (c. 44), Schedule 37, Part 9, the Animal Welfare Act 2006 (c. 45), Schedule 3, paragraph 5 and S.S.I. 2006/536.

(9) 1973 c. 60; amended by the Breeding and Sale of Dogs (Welfare) Act (c.11), sections 4 and 5, the Courts Act 2003 (c. 39), Schedule 8, paragraph 171, the Criminal Justice Act 2003 (c. 44), Schedule 37, Part 9, the Animal Welfare Act 2006 (c. 45), Schedule 3, paragraph 8 and S.S.I. 2006/536.

(10) 1951 c. 35; amended by the Criminal Justice Act 2003 (c. 44), Schedule 37, Part 9, the Animal Welfare Act 2006 (c. 45), Schedule 3, paragraph 3 and S.S.I. 2006/536.

(11) 1981 c. 22. Paragraph 28F was inserted by section 10 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11).

(12) 2006 c. 45.

(2) The licensing authority must, before reaching a decision as to whether or not to grant a licence, first consider a report made to the authority by an inspector appointed by it for that purpose under regulation 12.

(3) The report referred to in paragraph (2) must be made following an inspection by the person making the report and such inspection will be carried out after the application for the licence has been received unless regulation 9(3) applies.

(4) The inspection referred to in paragraph (3) means the inspection of any place, equipment or document as the person making the inspection thinks necessary for the purpose of enabling the licensing authority to satisfy itself on the matters referred to in paragraph (1).

(5) In the event of the death of the licence holder the licence will be deemed to have been granted to the licence holder's personal representatives, as long as none of the personal representatives is subject to an order for disqualification under any of the provisions set out in regulation 5(2)(a) to (h), and will remain in force for a period of 3 months beginning with the death and will then expire.

(6) A licensing authority may on the application of those personal representatives extend the period of 3 months referred to in paragraph (5) if the licensing authority is satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make extension undesirable.

### **Grant of licences**

8. The licensing authority may grant a licence which must be in writing and must state—
- (a) the name and home or business address of the licence holder;
  - (b) the address of the premises in Scotland where the animals will be kept (where the licence holder owns, leases or otherwise occupies premises in Scotland);
  - (c) the number of the licence;
  - (d) the date on which the licence commences and the date on which the licence expires which will be no longer than 3 years from the date of its commencement; and
  - (e) the conditions subject to which the licence has been granted.

### **Renewal of licences granted under regulation 8**

9.—(1) A licence holder may apply in writing for a licence to be renewed.

(2) Where the licensing authority has received an application for the renewal of a licence granted under regulation 8 before the expiry date of that licence, then that licence will be regarded as continuing in force until such time as a decision is issued on that application by the licensing authority.

(3) In the case of an application for a renewal of a licence, the licensing authority may, for the purposes of regulation 7(3), rely upon a report based on an inspection made in respect of the licence within a period of one year before the date on which the renewal is to commence.

### **Conditions**

10. The licensing authority must attach the following conditions to all licences—
- (a) the licence holder must not, without reasonable excuse, have a cat or dog which is less than 8 weeks of age in the licence holder's ownership, possession or control at any time unless that cat or dog is accompanied by that animal's mother;
  - (b) the licence holder must not take ownership, possession or control of more than the maximum number of animals permitted by the licensing authority at any one time;

- (c) the licence holder must take reasonable steps to satisfy him or herself that any person to whom the licence holder sells cats or dogs which are less than 84 days old at the date of sale is another licence holder, the holder of a licence for a rearing establishment for dogs issued under section 1(2) of the Breeding of Dogs Act 1973 or a licence issued under section 1(2) of the Pet Animals Act 1951;
- (d) the licence holder must ensure that all cats and dogs sold by the licence holder—
  - (i) have been subject to a physical examination by a veterinary surgeon with a view to the identification and treatment of any disease or parasitic infection in the 24 hour period immediately after the date on which the licence holder takes ownership, possession or control;
  - (ii) have a unique number assigned to each of them for the purpose of identifying the animals individually; and
  - (iii) are accompanied by a written record containing information as to the matters contained in the Schedule;
- (e) the licence holder must retain for no less than 3 years from the date of sale a copy of the written record referred to in paragraph (d)(iii);
- (f) the licence holder must ensure that the licensing authority is permitted to inspect at any reasonable time any place or equipment used in, or in connection with, the taking ownership, possession or control, sale, transport or keeping of animals to which these Regulations relate and any documents held by or on behalf of the licence holder relating to such animals;
- (g) the licence holder must accede to any reasonable request for information from the licensing authority relating to the undertaking of such activities by the licence holder;
- (h) the licence holder must provide the licence number of the licence which that person holds and the name and telephone number of the licensing authority in any advertisement or information issued by or on behalf of the licence holder; and
- (i) the licence holder must, prior to the physical transfer of any cat or dog to the purchaser, exhibit their licence (or a copy of the licence) to the purchaser.

### **Revocation, suspension or variation of licences**

**11.—(1)** The licensing authority may at any time revoke, suspend or vary a licence granted under regulation 8—

- (a) on application being made to it by the licence holder;
  - (b) if there has been a contravention of any condition attached to the licence or of these Regulations;
  - (c) if any information supplied by the licence holder is false; or
  - (d) if it considers such a revocation, suspension or variation is necessary to ensure animal welfare.
- (2) Where a licence is revoked, suspended or varied—
- (a) the licensing authority must give notice in writing to the licence holder informing the licence holder of the revocation or suspension or, as the case may be, giving details of the variation; and
  - (b) the licence holder must, if so required by the licensing authority, within 21 days of receipt of the notice in sub paragraph (a), return the licence to the licensing authority which must, if the licence is to be varied, re issue the licence to the licence holder in a varied form.