

Licensing of Dog, Cat and Rabbit Breeding Activities in Scotland

Consultation document

**Consultation open – 7 September 2018
to 30 November 2018**

September 2018

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PART I – ABOUT THIS CONSULTATION

Topic of this consultation

This consultation is seeking views on proposals to introduce new regulations for the licensing of dog, cat and rabbit breeding activities in Scotland.

Scope of this consultation

This consultation covers the proposals for a modern system of licensing for dog, cat and rabbit breeding activities allowing for independent accreditation of applicants to reduce the burden on local authorities.

The consultation considers how thresholds for licensing may be determined depending on the size of the undertaking and how this may work for organisations with multiple premises.

Geographical extent

Animal welfare is a devolved matter and this consultation applies to the proposed introduction of new regulations for dog, cat and rabbit breeding activities in Scotland only. The appropriate administration should be approached for further information in other parts of the UK.

Audience

Anyone may reply to this consultation. The Scottish Government would particularly like to hear from: dog, cat and rabbit breeders, animal welfare organisations, local authorities, veterinary professionals and academics.

Body responsible for this consultation

The Scottish Government's Animal Welfare Team is responsible for this consultation.

Duration

This consultation starts on -----7 September 2018

This consultation closes on -----30 November 2018

This constitutes a full consultation period of 12 weeks.

How to make an enquiry

If you have any queries about this consultation please contact the Scottish Government Animal Welfare Team (0300 244 9382) or by e-mail at petbreedingconsultation2018@gov.scot

Responding to this consultation paper

We are inviting responses to this consultation by 30 November 2018.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online <https://consult.gov.scot/animal-health-and-welfare/pet-breeding-activities/>

You can save and return to your responses while the consultation is still open. **Please ensure that consultation responses are submitted before the closing date of 30 November 2018.**

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Licensing of Dog, Cat & Rabbit Breeding Activities Consultation
Scottish Government Animal Welfare Team
P Spur
Saughton House
Broomhouse Drive
EH11 3XD

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at petbreedingconsultation2018@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

PART II BACKGROUND INFORMATION

Current Legislation

The practice of breeding dogs in Scotland is governed by the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999. Under these Acts, a licence is required for any individual who keeps a breeding establishment. A breeding establishment is where a person undertakes the business of breeding dogs for sale, owns or is responsible for breeding bitches which produce a total of five or more litters between them in a 12 month period. The Breeding of Dogs Act 1991 provides for inspection of premises unlicensed for the purposes of dog breeding. The breeding of cats and rabbits is currently unregulated.

The dealing of young dogs and cats is regulated by the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009. Under the regulations an individual who sells or acquires a cat or dog at less than 84 days old, with a view to sell requires an animal dealing licence. The dealing of young rabbits is currently unregulated.

These licences are granted subject to compliance with a set of standards, specific to the type of activity in question. They enable local authorities to inspect the premises, allow an appeals process to the courts in case of refusal or imposition of onerous conditions, provide that operating without a licence is an offence, and set out a number of disqualifications that are relevant to the local authority when assessing licence applications (such as a conviction for animal cruelty). They also permit a local authority to recover the costs for inspection, processing, and enforcement expenditure through a licence fee.

Welfare concerns

Despite these Acts and the ongoing work of many animal welfare organisations and enforcement agencies, serious animal welfare concerns remain, in particular with regard to puppies, for which there is an increasing demand.

Exact figures for the annual market for dogs, cats and rabbits are difficult to obtain. However, research by OneKind and the RSPCA estimates that around 100 licensed dog breeders currently operate within Scotland with the market for puppies in Scotland ranging between 70,000 and 190,000 per year.¹ This indicates that there may be a large number of unlicensed dog breeders who fall under the threshold of five or more litters in a 12-month period.

¹ Sold a Pup? Puppy Trade Report, RSPCA, 2016 AND Scotland's Puppy Profiteers. Puppy farming, trafficking, dealing and how the trade affects Scotland, OneKind, November 2017.

Whilst most breeding establishments are run by individuals with the best interests of the animals at heart, there is some concern that the welfare of breeding animals as well as their young can suffer if:

- More animals are kept than the premises have room for;
- Premises are unsanitary, unsafe and/or unsuitable for the animal in question;
- Females are bred too frequently;
- Offspring are separated from the mother at too young an age.

A new approach

The Programme for Government 2017-18 committed the Scottish Government to prepare legislation for a modern system of licensing of dog, cat and rabbit breeding activities, allowing for independent accreditation of applicants. The overall aim is to regulate this area to protect animal welfare in a way that is not unduly burdensome for those doing a good job at present, while being effective in dealing with cases where welfare is not being sufficiently protected.

The main features of the modern system are proposed to be:

- A threshold number of breeding animals determining whether licensing is to be applied;
- Licences should be flexible and may be awarded, on a risk-based assessment, for a period of up to three years;
- An exemption from inspection requirements for businesses assured by a UKAS accredited body;
- Licences to be issued at any point in the year for a fixed term but can be suspended or revoked at any time;
- Discourage the breeding of dogs, cats and rabbits with a predisposition for genetic conditions which lead to health problems in later life.

PART III – PROPOSALS FOR CONSULTATION

Stakeholders have expressed concern that the legislation concerning animal breeding, dealing and selling in Scotland is outdated. The Scottish Government proposes, therefore, to update the minimum legal requirements for each of these activities, based on current scientific and technical evidence on animal health and welfare. This will be set out in revised regulations, which will mean that in future changes can be made more easily by amending regulations rather than changing primary legislation.

As part of this process, the Scottish Government made a commitment in the Programme for Government 2017-18 to introduce new legislation for the licensing of dog, cat and rabbit breeding activities in Scotland, using the powers contained in the Animal Health and Welfare (Scotland) Act 2006. This would replace the current legislation in Scotland.

Prior to presenting such legislation for approval by the Scottish Parliament, the Scottish Ministers are required, by law, to consult such persons they consider to represent relevant interests and any other persons they consider appropriate. This public consultation document forms part of that consultation process.

The Scottish Government is seeking views on the proposal that dog, cat and rabbit breeders be required to hold a licence to carry out those activities, depending on the size of the undertaking. Details of these proposals are laid out below.

1. Extending the requirement for a licence

It is considered that the threshold in existing dog breeding legislation of five or more litters before a licence is automatically required is too high. Potentially forty or more puppies could be produced in a year without any legal obligations or inspections, and it is difficult to conceive of a breeder producing such an amount and not operating as a business.

The Scottish Government proposes to lower the threshold at which any dog breeding establishment needs to be licensed, and to extend that new threshold to cover cats and rabbits. We believe that the requirement for a licence should be applied to either:

- (a) anyone in the business of breeding and selling dogs, cats and rabbits regardless of the numbers involved; or
- (b) anyone producing three or more litters from their dogs, cats or rabbits in a 12 month period.

We further propose to extend the licensing regime to cover the breeding of dogs, cats and rabbits as pets to other types of transfer or supply, in addition to commercial sale.

2. Additional licence conditions

We propose to retain the existing requirements (for dogs) that each breeding female should only produce one litter per 12 month period, that they cannot be mated if they are under one year of age for dogs and cats and six months for rabbits, and that they must not give birth to more than six litters in their lifetime. Additionally, we propose that when considering whether to grant or renew a licence the Local Authority should be satisfied that dogs, cats and rabbits are:

- (a) at all times kept in accommodation that is of an appropriate construction and size with appropriate exercise facilities, temperature, lighting, ventilation and cleanliness;
- (b) provided with appropriate whelping facilities;
- (c) supplied with suitable food, drink and bedding; and
- (d) supplied with adequate facilities to enable them to exhibit normal behaviour patterns.

Finally, we wish to propose that a maximum number of 20 breeding dogs or cats could be held at any one licensed site over the course of year, to allow individual attention to animals and proper socialization of offspring as well as minimising the potential for disease spread on the site.

3. Guidance

The new legislation will require compliance with any relevant Scottish Government guidance as one of the licence conditions. The requirement to comply with such guidance will ensure that all those involved in dog, cat and rabbit breeding activities adhere to the highest animal welfare standards.

4. Independent Accreditation

Several industry bodies have begun to develop certification schemes for animal breeding activities, some of which have been accredited by UK's National Accreditation Body (UKAS). We therefore, propose to allow an exemption from inspection requirements for dog, cat and rabbit breeders affiliated to a body accredited by UKAS to certify, at a minimum, the legally-required welfare licence conditions. Accredited breeders would still require to be licensed by local authorities but could then expect a reduced frequency of local authority inspection.

5. Issuing of licenses

The Scottish Government wish to make licences flexible and adaptable to circumstances.

In addition to taking into account certification by other bodies, we would like to see greater risk-based assessment used in inspection and enforcement activities for all licensed establishments. This would mean that businesses that show consistent good practice and compliance benefit from reduced inspections, while local authorities would have more time to spend on improving welfare standards at less well run establishments.

In addition, we propose to increase the maximum length of a licence that local authorities may issue, at their discretion, from one to up to three years, again subject to a risk assessment. Local authorities would continue to set licence fees on a cost recovery basis, and would be able to set lower fees for more compliant licence holders. Local authorities would continue to have the ability to inspect if welfare concerns arise or if there are significant changes in the licensed premises or activities and shall have the power to suspend, vary or revoke licences or issue improvement notices for breaches of licensing conditions.

Furthermore, the Scottish Government propose to allow licences to start and end at any point in the year, which would stagger the requirements for work on licence renewals and inspections throughout the year.

6. Fit and proper person test

Current animal welfare legislation, such as the Breeding of Dogs Act 1973, ensures that those who have been disqualified from other activities reliant on the provision of acceptable animal welfare can be neither registered nor licensed to care for animals. The Scottish Government agrees with that principle and seeks views on what other requirements should be contained in a wider 'fit and proper' person test for those who wish to become registered breeders.

7. Prohibit harmful breeding practices

In recent years there has been a growth in demand for pets with particular physical features (e.g. short noses, protruding eyes, long ears etc). These animals have often been bred to meet a particular aesthetic 'look' or shape that may at that moment be in fashion. This growth in demand has incentivised breeding for extreme conformational characteristics in some breeds. Unfortunately, such breeding heightens the risk of harmful genetic conditions and can seriously affect the future health and wellbeing of the animal. It can also place unexpected financial strain on the owner as many such pets will need on-going and costly veterinary care.

To encourage caution amongst dog, cat and rabbit breeders and to counteract the market incentive towards extreme conformations the Scottish Government propose to:

- a) Discourage the breeding of dogs, cats and rabbits with a predisposition for genetic conditions which lead to health problems in later life; and

- b) As a condition of licensing, prohibit any breeding practices which are likely to cause the offspring suffering in later life.

The Scottish Government believes that it is important that sellers, breeders and dealers can be held accountable to protect welfare of the animals they supply.

Should such a proposal be adopted, detailed guidance would be published in consultation with organisations such as the Scottish SPCA, British Veterinary Association and the Kennel Club.

The welfare of the individual animal would be at the centre of this process and we expect this to be a deterrent to the minority of breeders, sellers or traders that do not fully consider the welfare of their animals, as well as providing an opportunity to highlight bad practice and potentially criminal behaviour to the relevant licensing and enforcement bodies.

PART IV – CONSULTATION QUESTIONS

All of the consultation questions are listed below. When considering these, we ask that you take into consideration the information provided in this document alongside any other knowledge or personal experiences that could be relevant. All opinions are welcome.

We ask that you use either the online Citizenspace facility or the consultation questionnaire provided to respond to this consultation as this will help with our analysis of responses. Please try to answer all the questions; however if you are unable to answer any particular question then please feel free to move on to the next. The questionnaire and on-line facility will also ask questions relating to your interest in this matter and where you currently reside; this will aid in the analysis of the responses to this consultation.

In order for us to deal with your response appropriately in terms of making responses publically available, please ensure that you complete a Respondent Information Form. This will ensure that if you ask for your response not to be published that we regard it as confidential and will treat it accordingly.

Consultation questions

(You will also be asked to explain the reasons for your answer as appropriate in the space provided in the questionnaire itself).

1. The Scottish Government proposes that dog, cat and rabbit breeding activities should be regulated. Do you agree?

Yes No Don't know

2. Do you agree with the proposal to set the licensing threshold for dog, cat and rabbit breeders at three or more litters a year?

Yes No Don't know

3. Do you have any comments on the thresholds that should apply? Should these be different for the separate species?

4. Do you agree with the proposal that a breeding dog, cat or rabbit must not give birth to more than six litters in their lifetime?

Yes No Don't know

5. Do you agree with the proposal that as a condition of licensing, premises should only be allowed a maximum of 20 breeding dogs or cats within one calendar year?

Yes No Don't know

6. Do you agree that individuals with unspent convictions for animal welfare offences or other criminal convictions (e.g. fraud) should not be allowed to hold a licence for breeding activities?

Yes No Don't know

7. Are there other considerations, apart from criminal convictions, that should be part of a 'fit and proper person' test for those running dog, cat or rabbit breeding activities?

8. The Scottish Government proposes that reasonable costs of inspections should be charged to recover costs to inspectors approved by Scottish Ministers or local authorities. Do you agree with that proposal?

Yes No Don't know

9. Should licence fees be set by the authorised inspectors, local authorities or by the Scottish Government? Do you have any comments on what cost is reasonable and what should be included in this? (For example, this might include recovery of administrative costs, or payment for the inspector's time etc).

Authorised inspectors local authorities Scottish Government
Don't know

10. The Scottish Government considers that licences lasting from one to three years may be issued on the basis of a welfare risk assessment. Do you agree?

Yes No Don't know

11. Do you think that a national list of licensed premises and activities should be kept?

Yes No Don't know

12. Do you have any comments on who should be able to access information from the list, and if a charge should be made for information?

Yes No Don't know

13. The Scottish Government believes that enforcement agencies should be able to suspend, vary or revoke licenses or issue improvement notices for minor irregularities. Do you agree with this proposal?

Yes No Don't know

14. The Scottish Government proposes that new legislation will require compliance with any relevant Scottish Government guidance as one of the licence conditions. Do you agree that this should be a condition of licensing? If you are aware of any other relevant standards please comment.

Yes No Don't know

15. Do you agree that appropriate fixed penalties should be available for minor non-compliance with the licensing legislation? (These are not currently available for animal welfare offences but may be introduced in future.)

Yes No Don't know

16. Do you agree that the Scottish Government should discourage the breeding of dogs, cats and rabbits with a predisposition for specific genetic conditions, which lead to health problems in later life?

Yes No Don't know

17. Do you agree that as a condition of licensing, any breeding practices which are likely to cause the offspring suffering in later life should be prohibited?

Yes No Don't know

18. Do you have any comment on any other appropriate measures the Scottish Government could take to discourage harmful breeding practices?

Yes No Don't know



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