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**Environment, Climate Change and Land Reform  
Committee**  
**Comataidh Atharrachadh Clìomaid is Ath-leasachaidh  
Fearann**

**Animal Welfare (Licensing of Activities  
Involving Animals) (Scotland)  
Regulations 2021 [draft]**



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# Environment, Climate Change and Land Reform Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Environment, Climate Change and Land Reform.



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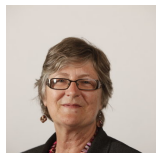
# Committee Membership



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Scottish National Party

# Introduction

1. The [Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021 \[draft\]](#) were laid on 23 December 2020 and referred to the Environment, Climate Change and Land Reform Committee. The Committee must report by 16 February 2021.
2. The draft instrument (regulations) is subject to the affirmative procedure; the parliamentary procedure is set out in Chapter 10 of the [Standing Orders of the Scottish Parliament](#).

# What the Regulations do

3. The instrument is made under powers conferred by sections 26(1), 27(1) and (5)(a) and 51(2) of the Animal Health and Welfare (Scotland) Act 2006 and all other powers enabling them to do so.
4. The purpose of the Regulations is to provide for the licensing of persons who, in Scotland, carry on activities of—
  - selling animals as pets;
  - rehoming animals as pets;
  - operating animal welfare establishments (including sanctuaries and rehoming centres); and
  - the breeding of dogs, cats and rabbits.
5. The instrument also includes provision to end the third-party sale of young dogs and cats by pet sellers.

## Background

6. In the Programme for Government 2017-18, the Scottish Government committed to—
  - preparing legislation for a modern system of registration and licensing of animal sanctuaries and rehoming activities in Scotland;
  - improving licensing for dog, cat and rabbit breeding, dealing and selling so that conditions in breeding units in Scotland could be controlled and breeders identified when advertising animals for sale.
7. The [2019-2020 Programme for Government](#) reiterated this commitment and said that the new system will prevent the sale of puppies and kittens under six months old in the course of business by anyone other than the breeder – known as 'Lucy's Law'.
8. Similar legislation ([Animal Welfare \(Licensing of Activities Involving Animals\)\(England\) Regulations 2018](#)) has been made in the UK Parliament and came into force in October 2018.
9. During the Committee's consideration of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill ('the Bill') at Stage 1, the then Minister for Rural Affairs and the Natural Environment, alluded to work beyond that Bill to be undertaken on animal welfare issues, saying "My officials are also working on a number of other initiatives that do not require changes to primary legislation." (17 December 2019, OR, column 1). These Regulations give effect to that work.
10. In discussing licensing issues during the passage of the Bill and whether this needed to be set out in one piece of primary legislation, Mike Radford, University of Aberdeen, said "The [Animal Health and Welfare (Scotland) Act 2006] is an umbrella piece of legislation...The licensing regime is an administrative regulatory

regime...The new regulations will be complementary rather than in opposition to existing legislation." (3 December 2019, OR, column 2).

11. Rehoming is currently an unregulated activity. This instrument requires any person operating an animal welfare establishment, i.e. an animal sanctuary or rehoming centre, to be licensed by the local authority. Dog breeding is currently licensed but the Scottish Government states that the system is not fit for purpose and there are serious welfare concerns. Cat and rabbit breeding is currently unregulated, and the licensing of pet shops is described as outdated. The Regulations will require local authorities to publish a register of licence holders for each activity so that the public can check that they are sourcing an animal from a licensed operator.
12. Further details on the draft Regulations can be found in the [policy note](#) accompanying the Regulations.

#### *Licensing authority*

13. For all activities (set out in paragraph 6 above) except rehoming animals as pets, the licensing authority is the local authority for the area in which the activity is carried on. For rehoming animals as pets, broadly the licensing authority is the local authority for the area in which the applicant resides or has a place of business.

#### *Fees*

14. The Regulations state that a licensing authority may charge such fees as it considers necessary.

#### *Period of licence*

15. The draft Regulations allow for a licensing authority to grant or renew a licence for a period of one, two or three years where appropriate.

#### *Other matters*

16. The draft Regulations make provision for inspections and the suspension, variation or revocation of a licence and for penalties including a custodial sentence.

#### *Consultation*

17. Detail on the consultation that the Scottish Government has undertaken in developing the draft Regulations is set out in the Policy note alongside links to the details of those consultations.
18. In October 2020, an advanced draft of the licensing regulations was shared with a number of key business and animal welfare stakeholders for consideration and comment. The draft was also shared with Scottish local authorities. The draft Policy Note states "Where practicable and appropriate to do so the draft regulations were amended to reflect stakeholder feedback".

#### **Members' Bills**

##### *Jeremy Balfour MSP: Proposed Pet Shop (Licensing) (Scotland) Bill*

19. Jeremy Balfour MSP undertook a consultation on pet shop licensing in Scotland in March 2018.



20. On 23 November 2018 the Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham, issued an [indication](#) which confirmed that the Scottish Government would give full effect to Mr Balfour's pet shop proposals as part of wider licensing legislation to be introduced.

*Christine Grahame MSP: Welfare of Dogs (Scotland) Bill*

21. The draft Regulations do not seek to address all the requirements of the Member's Bill. However, in amongst other requirements, the Bill seeks to place a duty on the Scottish Ministers to make licensing regulations, the effect of which will be to reduce the number of litters that triggers a requirement for a dog breeding licence from five to three.
22. These draft Regulations will require anyone breeding three or more litters of puppies in any 12-month period to be licensed by the licensing authority and to comply with various licence conditions.

# **Consideration by the Delegated Powers and Law Reform Committee**

23. The Committee considered the instrument on 19 January 2021 and made no comment on the draft regulations.

# Consideration by the Environment, Climate Change and Land Reform Committee

24. The Committee considered the regulations at its meeting on [25 January 2021](#) and took evidence from Ben MacPherson MSP, the Minister for Rural Affairs and the Natural Environment.
25. During questioning, the Committee followed up on the concerns which it outlined during the passage of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill on the lack of a centralised database and on the need for better information-sharing on convictions and bans in relation to animal welfare. The Minister said
- ” ...the regulations that are before us today do not specifically address the need for better information sharing between local authorities and other enforcement bodies, but that need is recognised by the Scottish Government and is being taken forward separately. Discussions are going on about standardising the databases that local authorities use to record information about animal welfare and related investigations and about how relevant information can be more efficiently shared with Scottish SPCA, Animal and Plant Health Agency and Food Standards Scotland investigators while, at the same time, the necessary data protection legislation is complied with.
26. The Committee sought further information from the Minister on the guidance to be produced to support the draft Regulations and the timescales for that guidance; the costs and burdens on local authorities and the rehoming of rescue animals from abroad. Members also commented on the timeframes for implementing various pieces of animal welfare legislation and asked about further legislation. Andrew Voas, Veterinary Head of Animal Welfare, Scottish Government, explained
- ” ...we see this as a first step towards rolling out a modern, flexible, risk-based licensing system to other areas of animal activity, for example performing animals, dog-walking, training or grooming services and those sorts of things. The regulations are part of a forward-looking plan to improve other areas of animal licensing.
27. Following the evidence, the Minister moved motion S5M-23808—That the Environment, Climate Change and Land Reform Committee recommends that the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 [draft] be approved. The motion was agreed to.

## Conclusion

28. The Environment, Climate Change and Land Reform Committee recommends that the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 [draft] be approved.

