

SL(5)736 – The Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021

Background and Purpose

These Regulations provide for the licensing of persons involved in Wales in selling animals as pets and make it an offence for commercial third parties to sell puppies and kittens under 6 months.

These Regulations specify activities for the purposes of section 13(1) of the Animal Welfare Act 2006 ("the 2006 Act") and provides for local authorities to be the licensing authorities. As such, subject to qualifying criteria, any person wishing to carry on any of these activities in Wales must obtain a licence from the local authority under these Regulations. These requirements replace the requirements, in Wales, to obtain a licence under the Pet Animals Act 1951.

A person who carries on any of these activities in Wales without a licence will commit an offence under section 13(6) of the 2006 Act and is liable to imprisonment for a term of up to six months, a fine or both. Under section 30 of the 2006 Act, local authorities may prosecute for any offence under the Act.

The Regulations set out how a person may apply to the local authority for a licence and sets out matters in respect of which a local authority must be satisfied when considering the grant or renewal of a licence. The Regulations provide for a local authority to charge fees to cover the costs it incurs in performing this function, considering a licence holder's compliance with the Regulations, enforcement and administration. The Regulations specify that a local authority must attach certain licence conditions to each licence granted or renewed. Further, a local authority must appoint an inspector when it considers it appropriate, for the purpose of ensuring that the licence conditions are being complied with. The Regulations require a local authority to have regard to guidance issued by the Welsh Ministers in carrying out their functions, and provides powers for inspectors to take samples from animals.

Procedure

Draft Affirmative.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.



1. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

It appears that the reference in Schedule 1, paragraph 3(b), may be incorrect. Paragraph 3 provides for certain exemptions to paragraph 2 of Schedule 1, which concerns selling animals as pets. Paragraph 3(a) provides an exemption for certain aquaculture production businesses. Paragraph 3(b) exempts “the activity described in paragraph 8 of Schedule 2”. However, Schedule 2 provides for “general conditions” that apply to all licensable activities. Paragraph 8 provides as follows:

“Animal handling and interactions

8—(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.”

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.

Regulation 12 of these Regulations allows local authorities to charge fees to cover the costs incurred in performing their licensing functions.

3. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

Full consideration of the regulations has not been undertaken as on 3 February 2021, the Welsh Government announced that a new version of the Regulations would be laid. The Welsh Government’s statement explained the circumstances as follows:

“In order to address a small, but important, error in the original version laid on 27 January, with regret, I have to advise I will shortly be laying a new version of the draft Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021.

The overall intention of the policy behind these Regulations, which will replace section 1(1) of the Pet Animals Act 1951, is to reflect best practice in the sale of puppies and kittens. Allowing commercial third parties to sell puppies and kittens means, in most



cases, purchasers will not see the puppy or kitten interacting with the bitch/ queen or the siblings.

Officials are working at pace to resolve the matter and a new debate date has been set for 23 March 2021. This delay is not anticipated to affect the coming into force date of these regulations which is the 10th September 2021."

Welsh Government response

Technical Scrutiny point 1 :

It is accepted that the reference in Schedule 1, paragraph 3(b), is incorrect and does not have the intended effect.

As the committee is aware a new version of this SI is due to be laid and this version will be withdrawn.

The issue identified in reporting point 1 will be resolved when the new version of the SI is laid.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 22 February 2021 and reports to the Senedd in line with the reporting points above. In addition, the Committee noted that the Welsh Government would shortly be laying a new version of the Regulations.

