



Breeding and Sale of Dogs (Welfare) Act 1999

CHAPTER 11



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Licensing of breeding establishments etc.

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Breeding and Sale of Dogs (Welfare) Act 1999

1999 CHAPTER 11

An Act to amend and extend certain enactments relating to the commercial breeding and sale of dogs; to regulate the welfare of dogs kept in commercial breeding establishments; to extend powers of inspection; to establish records of dogs kept at such establishments; and for connected purposes. [30th June 1999]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Licensing of breeding establishments etc.

1. In the Breeding of Dogs Act 1973 ("the 1973 Act"), after subsection (2) of section 1 insert—

Inspection and report before grant of licence.
1973 c. 60.

"(2A) On receipt of an application by a person to a local authority for the grant of a licence under this Act in respect of any premises—

- (a) if a licence under this Act has not previously been granted to the person in respect of the premises, the authority shall arrange for the inspection of the premises by a veterinary surgeon or veterinary practitioner and by an officer of the authority; and
- (b) in any other case, the authority shall arrange for the inspection of the premises by a veterinary surgeon or veterinary practitioner or by an officer of the authority (or by both).

(2B) Where an inspection is arranged under subsection (2A) of this section, the local authority shall arrange for the making of a report about the premises, the applicant and any other relevant matter; and the authority shall consider the report before determining whether to grant a licence."

Licence
conditions.

2.—(1) In subsection (4) of section 1 of the 1973 Act (matters to which a local authority shall have regard in determining whether to grant a licence and about which conditions must be included in the licence), in paragraph (b) (dogs to be visited at suitable intervals, so far as necessary), omit “(so far as necessary)”.

(2) In that subsection, after paragraph (e) insert—

“(f) that bitches are not mated if they are less than one year old;

(g) that bitches do not give birth to more than six litters of puppies each;

(h) that bitches do not give birth to puppies before the end of the period of twelve months beginning with the day on which they last gave birth to puppies; and

(i) that accurate records in a form prescribed by regulations are kept at the premises and made available for inspection there by any officer of the local authority, or any veterinary surgeon or veterinary practitioner, authorised by the local authority to inspect the premises;”,

and for “paragraphs (a) to (e)” substitute “paragraphs (a) to (i)”.

(3) After that subsection insert—

“(4A) Regulations under paragraph (i) of subsection (4) of this section shall be made by the Secretary of State by statutory instrument; and a statutory instrument containing regulations made under that paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement
and duration of
licence.

3.—(1) After subsection (5) of section 1 of the 1973 Act insert—

“(5A) A local authority shall determine whether to grant such a licence before the end of the period of three months beginning with the day on which the application for the licence is received.”

(2) In subsection (6) of that section (commencement of licences), for the words from “(according” to the end substitute “come into force at the beginning of the day specified in the licence as the day on which it is to come into force; and that day shall be the later of—

(a) the day stated in the application as that on which the applicant wishes the licence to come into force; and

(b) the day on which the licence is granted.”

(3) In subsection (7) of that section (period of licence), for “year to which it relates” substitute “period of one year beginning with the day on which it comes into force”.

(4) Subsection (1) does not apply in relation to any application for a licence received before the day on which this Act comes into force; and subsections (2) and (3) do not apply in relation to a licence granted before that day.

Imprisonment for
keeping
unlicensed
establishment etc.

4.—(1) In subsection (1) of section 3 of the 1973 Act (offence of keeping an unlicensed establishment etc.), for the words from “to” to the end substitute “to—

(a) imprisonment for a term not exceeding three months; or

(b) a fine not exceeding level 4 on the standard scale,
or to both.”

(2) Subsection (1) does not apply in relation to an offence committed before this Act comes into force.

5.—(1) In subsection (3) of section 3 of the 1973 Act (cancellation of licences and disqualification), for the words from “or of any offence” to the end substitute “, the court by which he is convicted may (in addition to or in substitution for any penalty under subsection (1) or (2) of this section) make an order providing for any one or more of the following—

- (a) the cancellation of any licence held by him under this Act;
- (b) his disqualification, for such period as the court thinks fit, from keeping an establishment the keeping of which is required to be licensed under this Act; and
- (c) his disqualification, for such period as the court thinks fit, from having custody of any dog of a description specified in the order.”

(2) In subsection (4) of that section (suspension of cancellation or disqualification pending appeal), for “ordered the cancellation of a person’s licence, or his disqualification, in pursuance of the last foregoing subsection” substitute “made an order under this section”.

(3) After that subsection insert—

“(5) Where a court makes an order under subsection (3)(c) of this section in relation to a description of dogs it may also make such order as it thinks fit in respect of any dog of that description which—

- (a) was in the offender’s custody at the time when the offence was committed; or
- (b) has been in his custody at any time since that time.

(6) An order under subsection (5) of this section may (in particular)—

- (a) require any person who has custody of the dog to deliver it up to a specified person; and
- (b) (if it does) also require the offender to pay specified amounts to specified persons for the care of the dog from the time when it is delivered up in pursuance of the order until permanent arrangements are made for its care or disposal.

(7) A person who—

- (a) has custody of a dog in contravention of an order under subsection (3)(c) of this section; or
- (b) fails to comply with a requirement imposed on him under subsection (6) of this section,

shall be guilty of an offence.

(8) Where a court proposes to make an order under subsection (5) of this section in respect of a dog owned by a person other than the offender, the court shall notify the owner who may make representations to the court; and if an order is made the owner may, within the period of seven days beginning with the date of the order, appeal to—

- (a) in England and Wales, the Crown Court; or
- (b) in Scotland, the High Court of Justiciary,

against the order.

(9) A person who is subject to a disqualification by virtue of an order under subsection (3)(c) of this section may, at any time after the end of the period of one year beginning with the date of the order, apply to the court which made the order (or, in England and Wales, any magistrates' court acting for the same petty sessions area) for a direction terminating the disqualification from such date as the court considers appropriate.

(10) On an application under subsection (9) of this section the court—

- (a) shall notify the relevant local authority which may make representations to the court;
- (b) shall, having regard to the applicant's character and his conduct since the disqualification was imposed, any representations made by the relevant local authority and any other circumstances of the case, grant or refuse the application; and
- (c) may order the applicant to pay all or any part of the costs, or (in Scotland) expenses, of the application (including any costs, or expenses, of the relevant local authority in making representations);

and in this subsection "the relevant local authority" means the local authority in whose area are situated the premises in relation to which the offence which led to the disqualification was committed.

(11) Where an application under subsection (9) of this section in respect of a disqualification is refused, no further application under that subsection in respect of that disqualification shall be entertained if made before the end of the period of one year beginning with the date of the refusal."

1991 c. 64.

(4) In subsection (2) of section 2 of the Breeding of Dogs Act 1991 (disqualification for offence of obstruction etc. of inspector of premises not covered by a licence under the 1973 Act), for the words from "disqualify him" to the end substitute "make an order providing for either or both of the following—

1973 c. 60.

- (a) his disqualification, for such period as the court thinks fit, from keeping an establishment the keeping of which is required to be licensed under the Breeding of Dogs Act 1973; and
- (b) his disqualification, for such period as the court thinks fit, from having custody of any dog of a description specified in the order."

(5) After that subsection insert—

"(2A) A court which has made an order under or by virtue of this section may, if it thinks fit, suspend the operation of the order pending an appeal.

(2B) Subsections (5) to (11) of section 3 of the Breeding of Dogs Act 1973 (provisions about disqualification) apply in relation to an order made under subsection (2)(b) above as they apply in relation to an order made under subsection (3)(c) of that section.” 1973 c. 60.

(6) This section does not apply in relation to an offence committed before this Act comes into force.

6. After section 3 of the 1973 Act insert—

Fees.

“Fees.

3A.—(1) The costs of inspecting premises under this Act and the Breeding of Dogs Act 1991 shall be met by the local authority concerned. 1991 c. 64.

(2) A local authority may charge fees—

(a) in respect of applications for the grant of licences under this Act; and

(b) in respect of inspections of premises under section 1(2A) of this Act.

(3) A local authority may set the level of fees to be charged by virtue of subsection (2) of this section—

(a) with a view to recovering the reasonable costs incurred by them in connection with the administration and enforcement of this Act and the Breeding of Dogs Act 1991; and

(b) so that different fees are payable in different circumstances.”

7. Before section 5 of the 1973 Act insert—

Definition of establishments.

“Breeding establishments for dogs.

4A.—(1) References in this Act to the keeping of a breeding establishment for dogs shall be construed in accordance with this section.

(2) A person keeps a breeding establishment for dogs at any premises if he carries on at those premises a business of breeding dogs for sale (whether by him or any other person).

(3) Subject to subsection (5) of this section, where—

(a) a person keeps a bitch at any premises at any time during any period of twelve months; and

(b) the bitch gives birth to a litter of puppies at any time during that period,

he shall be treated as carrying on a business of breeding dogs for sale at the premises throughout the period if a total of four or more other litters is born during the period to bitches falling within subsection (4) of this section.

(4) The bitches falling within this subsection are—

(a) the bitch mentioned in subsection (3)(a) and (b) of this section and any other bitches kept by the person at the premises at any time during the period;

(b) any bitches kept by any relative of his at the premises at any such time;

(c) any bitches kept by him elsewhere at any such time; and

(d) any bitches kept (anywhere) by any person at any such time under a breeding arrangement made with him.

(5) Subsection (3) of this section does not apply if the person shows that none of the puppies born to bitches falling within paragraph (a), (b) or (d) of subsection (4) of this section was in fact sold during the period (whether by him or any other person).

(6) In subsection (4) of this section “breeding arrangement” means a contract or other arrangement under which the person agrees that another person may keep a bitch of his on terms that, should the bitch give birth, the other person is to provide him with either—

(a) one or more of the puppies; or

(b) the whole or part of the proceeds of selling any of them;

and “relative” means the person’s parent or grandparent, child or grandchild, sibling, aunt or uncle or niece or nephew or someone with whom he lives as a couple.

(7) In this section “premises” includes a private dwelling.

Rearing establishments for dogs.

4B.—(1) For the purposes of the application of this Act in relation to Scotland, a person keeps a rearing establishment for dogs at any premises if he carries on at those premises a business of rearing dogs for sale (whether by him or any other person).

(2) In subsection (1) of this section “premises” includes a private dwelling.”

Sale of dogs

Sale of dogs.

8.—(1) The keeper of a licensed breeding establishment is guilty of an offence if—

(a) he sells a dog otherwise than at a licensed breeding establishment, a licensed pet shop or a licensed Scottish rearing establishment,

(b) he sells a dog otherwise than to the keeper of a licensed pet shop or a licensed Scottish rearing establishment knowing or believing that the person who buys it intends that it should be sold (by him or any other person),

(c) he sells a dog which is less than eight weeks old otherwise than to the keeper of a licensed pet shop or a licensed Scottish rearing establishment,

(d) he sells to the keeper of a licensed pet shop or a licensed Scottish rearing establishment a dog which was not born at a licensed breeding establishment, or

(e) he sells to the keeper of a licensed pet shop or a licensed Scottish rearing establishment a dog which, when delivered, is not wearing a collar with an identifying tag or badge.

(2) The keeper of a licensed Scottish rearing establishment is guilty of an offence if—

- (a) he sells a dog otherwise than at a licensed Scottish rearing establishment or a licensed pet shop,
- (b) he sells a dog otherwise than to the keeper of a licensed pet shop knowing or believing that the person who buys it intends that it should be sold (by him or any other person),
- (c) he sells a dog which is less than eight weeks old otherwise than to the keeper of a licensed pet shop, or
- (d) he sells a dog which, when delivered to him, was wearing a collar with an identifying tag or badge but is not wearing such a collar when delivered to the person to whom he sells it.

(3) The keeper of a licensed pet shop is guilty of an offence if he sells a dog which, when delivered to him, was wearing a collar with an identifying tag or badge but is not wearing such a collar when delivered to the person to whom he sells it.

(4) In proceedings against any person for an offence under this section it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) In this section—

“identifying tag or badge”, in relation to a dog, means a tag or badge which clearly displays information indicating the licensed breeding establishment at which it was born and any other information required by regulations,

“licensed breeding establishment” means a breeding establishment for dogs the keeping of which by its keeper (or, where more than one, each of its keepers) is licensed under the 1973 Act,

“licensed pet shop” means a pet shop the keeping of which by its keeper (or, where more than one, each of its keepers) is licensed under the Pet Animals Act 1951,

1951 c. 35.

“licensed Scottish rearing establishment” means a rearing establishment for dogs the keeping of which by its keeper (or, where more than one, each of its keepers) is licensed under the 1973 Act (as it applies in relation to Scotland), and

“regulations” means regulations made by the Secretary of State by statutory instrument;

and a statutory instrument containing regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

9.—(1) A person guilty of an offence under section 8 is liable on summary conviction to— Penalties.

- (a) imprisonment for a term not exceeding three months, or
- (b) a fine not exceeding level 4 on the standard scale,

or to both.

(2) Where a person is convicted of an offence under section 8(1) or (2), the court before which he is convicted may (in addition to or in substitution for any penalty under subsection (1)) make an order providing for any one or more of the following—

- (a) the cancellation of any licence held by him under the 1973 Act,
 - (b) his disqualification, for such period as the court thinks fit, from keeping an establishment the keeping of which is required to be licensed under the 1973 Act, and
 - (c) his disqualification, for such period as the court thinks fit, from having custody of any dog of a description specified in the order.
- (3) A court which has made an order under this section may, if it thinks fit, suspend the operation of the order pending an appeal.
- (4) Where a court makes an order under subsection (2)(c) in relation to a description of dogs it may also make such order as it thinks fit in respect of any dog of that description which—
- (a) was in the offender's custody at the time when the offence was committed, or
 - (b) has been in his custody at any time since that time.
- (5) An order under subsection (4) may (in particular)—
- (a) require any person who has custody of the dog to deliver it up to a specified person, and
 - (b) (if it does) also require the offender to pay specified amounts to specified persons for the care of the dog from the time when it is delivered up in pursuance of the order until permanent arrangements are made for its care or disposal.
- (6) A person who—
- (a) has custody of a dog in contravention of an order under subsection (2)(c), or
 - (b) fails to comply with a requirement imposed on him under subsection (5),
- is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to—
- (a) imprisonment for a term not exceeding three months, or
 - (b) a fine not exceeding level 4 on the standard scale,
- or to both.
- (8) Where a court proposes to make an order under subsection (4) in respect of a dog owned by a person other than the offender, the court shall notify the owner who may make representations to the court; and if an order is made the owner may, within the period of seven days beginning with the date of the order, appeal to—
- (a) in England and Wales, the Crown Court, or
 - (b) in Scotland, the High Court of Justiciary,
- against the order.
- (9) A person who is subject to a disqualification by virtue of an order under subsection (2)(c) may, at any time after the end of the period of one year beginning with the date of the order, apply to the court which made the order (or, in England and Wales, any magistrates' court acting for the same petty sessions area) for a direction terminating the disqualification from such date as the court considers appropriate.

(10) On an application under subsection (9) the court shall, having regard to—

- (a) the applicant's character,
- (b) his conduct since the disqualification was imposed, and
- (c) any other circumstances of the case,

grant or refuse the application; and where an application under subsection (9) in respect of a disqualification is refused, no further application under that subsection in respect of that disqualification shall be entertained if made before the end of the period of one year beginning with the date of the refusal.

Supplementary

10. The Schedule (repeals, including repeals of spent enactments) has effect. Repeals.

11.—(1) This Act may be cited as the Breeding and Sale of Dogs (Welfare) Act 1999. Short title, commencement and extent.

(2) This Act shall come into force at the end of the period of six months beginning with the day on which it was passed.

(3) This Act does not extend to Northern Ireland.

Section 10.

SCHEDULE

REPEALS

Chapter	Short title	Extent of repeal
1973 c. 60.	The Breeding of Dogs Act 1973.	In section 1, in subsection (2), the words "under this Act" and the words from "and on payment" to "determine" and, in subsection (4)(b), the words "(so far as necessary)". In section 5, in subsection (1), the words from the beginning to "Provided that" and, in subsection (2), the definitions of "breeding establishment" and, in Scotland, "breeding or rearing establishment". Section 6.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 6, paragraph 45.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In Schedule 6, paragraph 15.
1982 c. 45.	The Civic Government (Scotland) Act 1982.	In Schedule 3, in paragraph 3, in sub-paragraph (a), the words "5(2), 6 and" and sub-paragraphs (b) and (c).
1991 c. 64.	The Breeding of Dogs Act 1991.	Section 2(3).

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