
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021

PART 3

Grant, renewal and variation of a licence and inspection of premises

Conditions of grant or renewal of a licence

- 6.—(1) This regulation applies where—
- (a) a licensing authority has received an application that complies with regulation 4(2) for the grant or renewal of a licence to carry on—
 - (i) a licensable activity described in paragraphs 1, 8, 14, 17 or 20 of schedule 1 on premises in the area of the local authority that is the licensing authority, or
 - (ii) the licensable activity described in paragraph 4 of schedule 1 (engaging in animal rehoming activities), where the licensing authority is an appropriate licensing authority in terms of regulation 4(4) or (5),
 - (b) the application gives such information as the licensing authority has required, and
 - (c) any appropriate fee charged in accordance with regulation 15 has been paid.
- (2) The licensing authority—
- (a) must (where paragraph (1)(a)(i) applies) instruct one or more inspectors to inspect the premises on which the licensable activity is being or is to be carried on,
 - (b) may (where paragraph (1)(a)(ii) applies) instruct one or more inspectors to inspect any premises on which the licensable activity described in paragraph 4 of schedule 1 (engaging in animal rehoming activities) is being or is to be carried on.
- (3) Following the receipt by the local authority of an inspector's report submitted to it under regulation 12, or the taking of a decision not to instruct an inspection under paragraph (2)(b), the licensing authority must grant a licence to the applicant, or renew the applicant's licence, in accordance with the application if it is satisfied that—
- (a) the standard conditions are likely to be met,
 - (b) any licence condition which it intends to attach to the licence in accordance with paragraph (5) is likely to be met, and
 - (c) the grant or renewal is appropriate, having taken into account any report submitted to it in accordance with regulation 12.
- (4) A licensing authority must attach to each licence granted or renewed—
- (a) a copy of the definitions in regulation 2, and
 - (b) the standard conditions.

(5) A licensing authority may attach such further conditions to licences granted or renewed under this regulation as it considers necessary for the purposes of securing the welfare of animals for which the applicant is or will be responsible.

(6) A licensing authority must specify in a licence granted or renewed by it under this regulation—

- (a) for a licensable activity described in paragraph 1, 8, 14, 17 or 20 of schedule 1, the premises on which the licensable activity may be carried on,
- (b) for a licensable activity described in paragraph 14, 17 or 20 of schedule 1 (dog breeding, cat breeding or rabbit breeding), the maximum number of breeding bitches, breeding female cats or breeding female rabbits, as the case may be, that may be kept in relation to the licensable activity at any time on the premises on which the activity will be carried on,
- (c) for the licensable activity described in paragraph 1 of schedule 1 (engaging in animal rehoming activities), the animals or types of animal that may be sold by the applicant as an operator.

(7) In considering whether the standard licence conditions and any licence conditions which it intends to attach to the licence are likely to be met, a licensing authority must take account of—

- (a) the applicant's conduct, if any, as the operator of the licensable activity to which the application for the grant or renewal relates,
- (b) whether the applicant is a fit and proper person to be the operator of that activity, and
- (c) any other relevant circumstances.

(8) A licensing authority must not grant a licence to an applicant, or renew an applicant's licence, in any circumstances other than those described in these Regulations.

(9) Any licence granted or renewed in relation to any of the licensable activities is subject to—

- (a) the standard conditions, and
- (b) any other licence conditions attached to the licence by the licensing authority in accordance with paragraph (5).

Notices arising from an application

7.—(1) A decision of a licensing authority to—

- (a) refuse an application for grant or renewal of a licence that has been made in accordance with regulation 6(1)(a), or
- (b) attach a condition to a licence in accordance with regulation 6(5),

must be notified to the applicant by service of a notice on the applicant.

(2) A notice under paragraph (1) must include—

- (a) a description of the applicant's right of appeal to the sheriff including specification of the period under regulation 27 within which such an appeal may be brought, and
- (b) the licensing authority's reasons for the decision.

Period of licence

8.—(1) A licensing authority may grant or renew a licence for a period of one, two or three years in respect of the licensable activity.

(2) A licensing authority must be satisfied that the period for which a licence is granted or renewed is appropriate on the basis of its assessment of—

- (a) the risk of an applicant breaching any standard conditions or other licence conditions to be attached to the licence by the licensing authority in accordance with regulation 6(5),

- (b) the impact on animal welfare of any such breaches, and
- (c) whether the applicant is already meeting higher standards of animal welfare than are required by the licence conditions.

Power to take samples from animals

9. For the purposes of checking compliance with these Regulations or the licence conditions, an inspector may take samples, or arrange for samples to be taken by a veterinary surgeon, from any animals on premises occupied by an operator for laboratory testing.

Duty to assist in the taking of samples from animals

10. An operator must comply with any reasonable request of an inspector to facilitate the identification and examination of an animal and the taking of samples in accordance with regulation 9 and, in particular, must arrange the suitable restraint of an animal if so requested by an inspector.

Variation of a licence on the application, or with the consent, of a licence holder

11.—(1) A licensing authority may at any time vary a licence—

- (a) on the application in writing of the licence holder, or
- (b) on its own initiative, with the consent of the licence holder.

(2) Variation of a licence under paragraph (1) means changing the details of a licence other than a standard licence condition and includes—

- (a) attachment of a condition to a licence of the same legal effect as if it had been attached under regulation 6(5), if the requirements for attachment of a licence under regulation 6(5) are also met, and
- (b) removal of a condition that has been attached to a licence under regulation 6(5) or by way of variation of a licence.

Inspector's report

12.—(1) Where a licensing authority instructs an inspection pursuant to regulation 6(2), it must arrange for the submission to it of a report by the inspector.

(2) The inspector's report must—

- (a) contain information about the applicant, any relevant premises, any relevant records, the condition of any animals and any other relevant matter the inspector considers relevant,
- (b) state whether or not the inspector considers that the standard licence conditions are likely to be met, and
- (c) where the application is for a licence to carry out any of the activities defined in paragraphs 14, 17 and 20 of schedule 1 (dog breeding, cat breeding and rabbit breeding), recommend a maximum number of breeding female animals for the purposes of regulation 6(6)(b).

Persons who may not apply for a licence

13.—(1) A person may not apply for a licence in respect of a licensable activity while the person is disqualified under—

- (a) section 40(1) (disqualification orders) of the Act as applied by any enactment if the disqualification is of a type specified in section 40(2)(a), (b), (c), (d), (f), (g) or (h) of the Act,

- (b) section 34(1) (disqualification) of the Animal Welfare Act 2006⁽¹⁾ if the disqualification is of a type specified in section 34(2), (3) or (4) of that Act, or
 - (c) section 33(1) (disqualification) of the Welfare of Animals Act (Northern Ireland) 2011⁽²⁾ if the disqualification is of a type specified under section 33(2), (3) or (4) of that Act.
- (2) Any licence held by a person mentioned in paragraph (1) is automatically revoked.

Death of a licence holder

14.—(1) In the event of the death of a licence holder, the licence is deemed to have been granted to, or renewed in respect of, the personal representatives of that former licence holder.

(2) In the circumstances described in paragraph (1), and subject to paragraph (4), the licence is to remain in force for three months beginning with the date of the death of the former licence holder or for as long as it was due to remain in force but for the death (whichever period is shorter) but remains subject to the provisions in Part 4.

(3) The personal representatives must give notice in writing to the licensing authority which granted or renewed the licence that they are now the licence holders within 28 days beginning with the date of the death of the former licence holder.

(4) If the personal representatives fail to notify the licensing authority within the period specified in paragraph (3), the licence ceases to have effect on the expiry of that period.

(5) The licensing authority which granted or renewed the licence may, on the application of the personal representatives, extend the period specified in paragraph (2) for up to three months if it is satisfied that the extension is necessary for the purpose of winding up the estate of the former licence holder and is appropriate in all the circumstances.

Fees

15.—(1) A licensing authority may charge such fees as it considers necessary for—

- (a) the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation,
- (b) the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration, and
- (c) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator.

(2) The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.

Guidance

16. A local authority must have regard in the carrying out of its functions under these Regulations to such guidance as may be issued by the Scottish Ministers.

(1) 2006 c.45.

(2) 2011 c. 16 (N.I.). Section 33 was amended by section 48(5)(b) of the Justice Act (Northern Ireland) 2006 (c.21) (N.I.).