
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

PART 1

Introduction

Title, commencement and application

- 1.—(1) These Regulations—
- (a) may be cited as the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018;
 - (b) come into force on 1st October 2018.
- (2) The following provisions of these Regulations apply in England only—
- (a) regulations 2 to 24,
 - (b) regulations 27 to 29, and
 - (c) Schedules 1 to 8.

Interpretation

2. In these Regulations—
- “the Act” means the Animal Welfare Act 2006;
- “adult dog” means a dog aged 6 months or more;
- “general conditions” means the conditions set out in Schedule 2;
- “horse” includes an ass, mule or hinny;
- “licence”, except as the context otherwise requires in regulation 11(1)(b) and Schedule 8 or where more specifically provided, means a licence to carry on a licensable activity granted or renewed under these Regulations and cognate expressions are to be construed accordingly;
- “licence conditions” means—
- (a) the general conditions, and
 - (b) the relevant specific conditions;
- “licensable activity” means an activity described in paragraph 2, 4, 6, 8 or 10 of Schedule 1;
- “listed” means for the time being listed as authorised to carry out an inspection on the list of veterinarians drawn up by the Royal College of Veterinary Surgeons;
- “local authority” means—
- (a) a district council,
 - (b) a London borough council,

- (c) the Common Council of the City of London (in their capacity as a local authority),
- (d) the Council of the Isles of Scilly, or
- (e) a combined authority in England established under section 103 of the Local Democracy, Economic Development and Construction Act 2009⁽¹⁾;

“operator” means an individual who—

- (a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or
- (b) where a licence has been granted or renewed, is the licence holder;

“pet” means an animal mainly or permanently, or intended to be mainly or permanently, kept by a person for—

- (a) personal interest,
- (b) companionship,
- (c) ornamental purposes, or
- (d) any combination of (a) to (c).

“puppy” means a dog aged less than 6 months;

“relevant specific conditions” means—

- (a) in relation to the activity of selling animals as pets (or with a view to their being later resold as pets) as described in paragraph 2 of Schedule 1, the conditions set out in Schedule 3;
- (b) in relation to the activity of providing or arranging for the provision of boarding for cats or dogs as described in paragraph 4 of Schedule 1, the conditions set out in the relevant Part of Schedule 4;
- (c) in relation to the activity of hiring out horses as described in paragraph 6 of Schedule 1, the conditions set out in Schedule 5;
- (d) in relation to the activity of breeding dogs as described in paragraph 8 of Schedule 1, the conditions set out in Schedule 6;
- (e) in relation to the activity of keeping or training animals for exhibition as described in paragraph 10 of Schedule 1, the conditions set out in Schedule 7;

“sleeping area” means a fully-enclosed indoor area in which a dog, or, in the context of Part 1 of Schedule 4, a cat, can rest, sleep or avoid seeing other people or animals;

“veterinarian” means—

- (a) a person who is for the time being registered in the register of veterinary surgeons maintained under section 2 of the Veterinary Surgeons Act 1966⁽²⁾, or
- (b) a person who is for the time being registered in the supplementary veterinary register maintained under section 8 of that Act;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971⁽³⁾.

(1) 2008 c.20. Section 103 has been amended by sections 12(2) and 14(2) of the Cities and Local Government Devolution Act 2016 (2016 c.1).

(2) 1966 c. 36. Section 2(2) has been amended by article 12 and paragraph 1 of the Schedule to S.I. 2003/2919 and by article 2 and paragraph (2)(a) and (b) of the Schedule to S.I. 2008/1824.

(3) 1971 c. 80.

Licensing of operators

- 3.—(1) Each licensable activity is a specified activity for the purposes of section 13(1) of the Act.
- (2) A local authority is the licensing authority for any licensable activity carried on on premises in its area.

PART 2

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

Conditions of grant or renewal of a licence

- 4.—(1) This regulation applies where—
- (a) a local authority has received from an operator an application in writing for the grant or renewal of a licence to carry on a licensable activity on premises in the local authority's area, and
 - (b) the application gives such information as the local authority has required.
- (2) The local authority must—
- (a) appoint one or more suitably qualified inspectors to inspect any premises on which the licensable activity or any part of it is being or is to be carried on, and
 - (b) following that inspection, grant a licence to the operator, or renew the operator's licence, in accordance with the application if it is satisfied that—
 - (i) the licence conditions will be met,
 - (ii) any appropriate fee has been paid in accordance with regulation 13, and
 - (iii) the grant or renewal is appropriate having taken into account the report submitted to it in accordance with regulation 10.
- (3) A local authority must attach to each licence granted or renewed—
- (a) the general conditions, and
 - (b) the relevant specific conditions.
- (4) On receipt of an application in writing for the grant or renewal of a licence in respect of the activity described in paragraph 6 of Schedule 1, if no inspector appointed under paragraph (2)(a) is a listed veterinarian, the local authority must appoint a listed veterinarian to inspect the premises with the inspector appointed under that paragraph.
- (5) On receipt of an application in writing for the grant of a licence in respect of the activity described in paragraph 8 of Schedule 1, if no inspector appointed under paragraph (2)(a) is a veterinarian, the local authority must appoint a veterinarian to inspect the premises with the inspector appointed under that paragraph.
- (6) Paragraph (5) does not apply where the application is for the grant of such a licence which is to have effect immediately after the remainder of the term of a licence mentioned in regulation 27(5).
- (7) In considering whether the licence conditions will be met, a local authority must take account of the applicant's conduct as the operator of the licensable activity to which the application for the grant or renewal relates, whether the applicant is a fit and proper person to be the operator of that activity and any other relevant circumstances.
- (8) A local authority must not grant a licence to an operator, or renew an operator's licence, in any circumstances other than those described in these Regulations.

(9) All licences granted or renewed in relation to any of the licensable activities are subject to the licence conditions.

Period of licence

5. A local authority may grant or renew a licence—
- (a) for a period of one, two or three years in respect of the activity or any part of the activity described in paragraph 2, 4, 6 or 8 of Schedule 1 if it is satisfied that a period of one, two or three years, as the case may be, is appropriate on the basis of its assessment, having regard to such guidance as may be issued by the Secretary of State, of—
 - (i) the risk of an operator breaching any licence conditions;
 - (ii) the impact on animal welfare of any such breaches; and
 - (iii) whether the operator is already meeting higher standards of animal welfare than are required by the licence conditions;
 - (b) for a period of three years in respect of the activity or any part of the activity described in paragraph 10 of Schedule 1.

Power to take samples from animals

6. An inspector may, for the purposes of ensuring the licence conditions are being complied with, take samples for laboratory testing from any animals on premises occupied by an operator.

Duty to assist in the taking of samples from animals

7. 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 6 and, in particular, must arrange the suitable restraint of an animal if so requested by an inspector.

Hiring out horses: requirement for annual inspection of premises

8.—(1) Where there is a licence in force in relation to an activity described in paragraph 6 of Schedule 1, the local authority must appoint a listed veterinarian to inspect the premises on which the activity is being carried on.

(2) For the purposes of paragraph (1), the authority must make an appointment for an inspection to take place before the end of the first anniversary of the day on which the licence, as granted or renewed, came into force and before the end of each subsequent year in respect of which the licence remains in force.

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

9. A local 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 in writing of the licence holder.

Inspector's report

10.—(1) Where a local authority arranges an inspection pursuant to regulation 4(2)(a), 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 operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter, and
- (b) state whether or not the inspector considers that the licence conditions will be met.

Persons who may not apply for a licence

- 11.**—(1) The following persons may not apply for a licence in respect of any licensable activity—
- (a) a person listed as a disqualified person in paragraph 4 or any of paragraphs 6 to 17 of Schedule 8 where the time limit for any appeal against that disqualification has expired or where, if an appeal was made, that appeal was refused;
 - (b) a person listed in any of paragraphs 1 to 3 and 5 of Schedule 8 as having held a licence which was revoked where the time limit for any appeal against that revocation has expired or where, if an appeal was made, that appeal was refused.
- (2) Any licence granted or renewed, or held by, a person mentioned in paragraph (1)(a) or (b) is automatically revoked.

Death of a licence holder

- 12.**—(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), 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 3.
- (3) The personal representatives must notify in writing the local 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 so to notify the local authority within the period specified in paragraph (3), the licence shall cease to have effect on the expiry of that period.
- (5) The local 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

- 13.**—(1) A local 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,
 - (c) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
 - (d) the reasonable anticipated costs of compliance with regulation 29.
- (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

14. 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 Secretary of State.

PART 3

Enforcement and notices

Grounds for suspension, variation without consent or revocation of a licence

15. A local authority may, without any requirement for the licence holder's consent, decide to suspend, vary or revoke a licence at any time on being satisfied that—

- (a) the licence conditions are not being complied with,
- (b) there has been a breach of these Regulations,
- (c) information supplied by the licence holder is false or misleading, or
- (d) it is necessary to protect the welfare of an animal.

Procedure for suspension or variation without consent

16.—(1) Except as otherwise provided in this regulation, the suspension or variation of a licence following a decision under regulation 15 has effect at the end of a period of seven working days beginning with the date on which notice of the decision is issued to the licence holder or, if that date is not a working day, the next working day.

(2) If it is necessary to protect the welfare of an animal, the local authority may specify in the notice of its decision that the suspension or variation has immediate effect.

(3) A decision to suspend or vary a licence must—

- (a) be notified to the licence holder in writing,
- (b) state the local authority's grounds for suspension or variation,
- (c) state when it comes into effect,
- (d) specify measures that the local authority considers are necessary in order to remedy the grounds, and
- (e) explain the right of the licence holder to make written representations in accordance with paragraph (4) and give details of the person to whom such representations may be made and the date by the end of which they must be received.

(4) The licence holder may make written representations which must be received by the local authority within seven working days beginning with the date of issue of notice of the decision under regulation 15 to suspend or vary the licence or, if that date is not a working day, the next working day.

(5) Except in relation to notices under paragraph (2), where a licence holder makes written representations which are received by the local authority within the period specified in paragraph (4), the suspension or variation is not to have effect unless the local authority, after considering the representations, suspends or varies the licence in accordance with paragraph (6)(a).

(6) Within seven working days beginning with the date of receipt of any representations made in accordance with paragraph (5), the local authority must, after considering the representations—

- (a) suspend or vary the licence,
- (b) cancel its decision under regulation 15 to suspend or vary the licence,
- (c) confirm the suspension or variation of the licence under paragraph (2), or

(d) reinstate the licence if it has been suspended, or cancel its variation if it has been varied, under paragraph (2).

(7) The local authority must issue to the licence holder written notice of its decision under paragraph (6) and the reasons for it within seven working days beginning with the date of receipt of any representations made in accordance with paragraph (4) or, if that date is not a working day, beginning with the next working day.

(8) The local authority's decision under paragraph (6) is to have effect on service of its notice under paragraph (7).

(9) Paragraph (10) applies if the local authority fails to comply with paragraph (6) or (7).

(10) Where this paragraph applies, after seven working days beginning with the date of receipt of any representations made in accordance with paragraph (4) or, if that date is not a working day, beginning with the next working day—

- (a) a licence suspended under paragraph (2) is to be deemed to be reinstated;
- (b) a licence varied under paragraph (2) is to be deemed to have effect as if it had not been so varied;
- (c) a licence suspended under paragraph (6)(a) is to be deemed to be reinstated;
- (d) a licence varied under paragraph (6)(a) is to be deemed to have effect as if it had not been so varied;
- (e) any licence held by the licence holder other than a licence suspended or varied under paragraph (2) or (6)(a) which the local authority decided to suspend or vary under regulation 15 is to be deemed to remain in force and not to be so varied.

(11) Once a licence has been suspended for 28 days, the local authority must on the next working day—

- (a) reinstate it without varying it,
- (b) vary and reinstate it as varied, or
- (c) revoke it.

(12) If the local authority fails to comply with paragraph (11), the licence is to be deemed to have been reinstated without variation with immediate effect.

Reinstatement of a suspended licence by a local authority

17.—(1) A local authority must reinstate a suspended licence by way of written notice once it is satisfied that the grounds specified in the notice of suspension have been or will be remedied.

(2) Where a local authority reinstates a licence under paragraph (1), it may reduce the period for which it is reinstated.

Notice of revocation

18.—(1) A revocation decision must—

- (a) be notified in writing to the licence holder,
- (b) state the local authority's grounds for revocation, and
- (c) give notice of the licence holder's right of appeal to the First-tier Tribunal and the period under regulation 24 within which such an appeal may be brought.

(2) The decision has effect on service of the notice.

Obstruction of inspectors

19. A person must not intentionally obstruct an inspector appointed for the purposes of the enforcement of these Regulations in the exercise of any powers conferred by or under the Act.

Offences

20.—(1) It is an offence for a person, without lawful authority or excuse—

- (a) to breach a licence condition;
- (b) to fail to comply with regulation 7 or 19.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine.

Powers of entry

21. Breach of a licence condition must be treated as a relevant offence for the purposes of section 23 of the Act (entry and search under warrant in connection with offences).

Post-conviction powers

22. The relevant post-conviction powers contained in sections 34 and 42 of the Act apply in relation to a conviction for an offence under regulation 20.

Notices

23.—(1) Any notice issued by a local authority under these Regulations may be amended, suspended or revoked by the local authority in writing at any time.

(2) A notice may be served on a person by—

- (a) personal delivery,
- (b) leaving it or sending it by post to the person's current or last known postal address, or
- (c) emailing it to the person's current or last known email address.

PART 4

Appeals

Appeals

24.—(1) Any operator who is aggrieved by a decision by a local authority—

- (a) to refuse to grant or renew a licence, or
- (b) to revoke or vary a licence,

may appeal to the First-tier Tribunal.

(2) The period within which an operator may bring such an appeal is 28 days beginning with the day following the date of the decision.

(3) The First-tier Tribunal may on application and until the appeal is determined or withdrawn—

- (a) in the case of a decision to refuse to renew a licence, permit a licence holder to continue to carry on a licensable activity or any part of it subject to the licence conditions, or
- (b) suspend a revocation or variation under regulation 15.

(4) On appeal, the First-tier Tribunal may overturn or confirm the local authority's decision, with or without modification.

PART 5

Repeals, revocations and consequential amendments

Repeals and consequential amendments

25. Schedule 9 (repeals and consequential amendments) is to have effect.

Revocations and consequential amendments

26. Schedule 10 (revocations and consequential amendments) is to have effect.

PART 6

Transitional and saving provisions

Transitional and saving provisions

27.—(1) Any unexpired licence granted in accordance with the provisions of the Pet Animals Act 1951(4) shall continue in force for the remainder of its term subject to the provisions of that Act as it had effect on the relevant date.

(2) Any unexpired licence granted under the Animal Boarding Establishments Act 1963(5) shall continue in force for the remainder of its term subject to the provisions of that Act as it had effect on the relevant date.

(3) Any unexpired licence granted under of the Riding Establishments Act 1964(6) shall continue in force for the remainder of its term subject to the provisions of that Act as it had effect on the relevant date.

(4) Any unexpired provisional licence granted under the Riding Establishments Act 1970(7) shall continue in force for the remainder of its term subject to the provisions of that Act and, so far as relevant, the Riding Establishments Act 1964 as those Acts had effect on the relevant date.

(5) Any unexpired licence granted in accordance with the provisions of the Breeding of Dogs Act 1973(8) shall continue in force for the remainder of its term subject to the provisions of—

- (a) that Act,
- (b) the Breeding of Dogs (Licensing Records) Regulations 1999(9),
- (c) the Breeding and Sale of Dogs (Welfare) Act 1999(10), and
- (d) the Sale of Dogs (Identification Tag) Regulations 1999(11),

as those enactments had effect on the relevant date.

(4) 1951 c. 35 (14 & 15 Geo 6).

(5) 1963 c. 43.

(6) 1964 c. 70.

(7) 1970 c. 32.

(8) 1973 c. 60.

(9) S.I. 1999/3192.

(10) 1999 c. 11.

(11) S.I. 1999/3191.

(6) Any registration of a person under the Performing Animals (Regulation) Act 1925(12) in force on the relevant date shall continue in force, subject to the provisions of that Act as it had effect on the relevant date, for a period of six months starting with the date on which these Regulations come into force.

(7) In this regulation—

“unexpired” means still in force on, and with any of its term remaining after, the relevant date;

“the relevant date” means the day before the date on which these Regulations come into force.

PART 7

Review and provision of information to the Secretary of State

Review

28.—(1) The Secretary of State must, from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st October 2023.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(13) requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision mentioned in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Provision of information to the Secretary of State

29.—(1) Each local authority must provide the following information to the Secretary of State in writing for the purpose of assisting the Secretary of State to carry out the review in accordance with regulation 28—

- (a) the number of licences in force for each licensable activity in its area on each reference date, and
- (b) the average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.

(2) Each local authority must provide the information to the Secretary of State—

- (a) in electronic form, or secure that it is accessible to the Secretary of State in electronic form, and
- (b) no later than the next 31st May following the relevant reference date.

(12) 1925 c. 38 (15 & 16 Geo 5).

(13) 2015 c. 26.

(3) In this regulation—

“reference date” means 1st April each year beginning with 1st April 2019;

“reference period” means the period beginning with 1st October 2018 and ending with 31st March 2019, the year beginning with 1st April 2019 and each subsequent year beginning with an anniversary of 1st April 2019.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs