

2011 No. (W.)

ANIMALS, WALES

ANIMAL WELFARE

The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations make provision for the licensing of persons involved in the breeding of dogs. Part 1 of the Regulations designates the breeding of dogs for the purposes of section 13(1) of the Animal Welfare Act 2006 (c.45) (“the Act”). The consequence of this designation is that, subject to qualifying criteria and some exceptions, any person wishing to breed dogs must obtain a licence from their local authority.

Part 2 of the Regulations makes provision for the granting and renewing of the licence by local authorities and the charging of fees to cover any reasonable expenses incurred in performing this function and for monitoring compliance with these Regulations.

Part 3 provides for the suspension and revocation of the licence if the conditions in the Schedule to these Regulations are breached and for appeals.

Part 4 provides for powers of Inspectors to take samples, confers powers of entry and applies relevant post conviction powers contained in the Act. It provides that a breach of the regulations is a criminal offence and provides for local authorities to enforce the Regulations.

The Schedule to these Regulations sets out conditions which must be met in order for a local authority to grant or renew a licence.

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Made

Coming into force

The Welsh Ministers, as the appropriate national authority in relation to Wales⁽¹⁾, make the following Regulations in exercise of the powers conferred by sections 13 and 62 of the Animal Welfare Act 2006⁽²⁾

In accordance with section 13(9) of that Act, the Welsh Ministers have consulted those persons appearing to them to represent interests with which these Regulations are concerned as they considered appropriate.

In accordance with section 61(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

PART 1

Introduction

Title, application and commencement

1. The title of these Regulations is The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011, they apply in relation to Wales and come into force on the day after the day on which they were made.

Repeal

2. Section 1(1) of the Breeding of Dogs Act 1973⁽³⁾ is repealed.

Interpretation

3. In these Regulations--

(1) The appropriate national authority is defined in section 62(1) of the Animal Welfare Act 2006. Functions conferred on the National Assembly for Wales are now vested in the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
(2) 2006 c.45
(3) 1973 c 60

“the Act” means the Animal Welfare Act 2006;

“breeding bitch” means an un-neutered female dog over the age of 6 months;

“enrichment and enhancement programme” means a written document approved by the local authority detailing how dogs will have the opportunity to express normal behaviour;

“full time attendant” means a person who works at least 37 hours per week;

“inspector” means any person who has written authority from a local authority to act in matters arising under or in relation to the Act or these Regulations;

“licence” means a licence granted under regulation 5;

“licence conditions” means those conditions set out in the Schedule to these Regulations;

“local authority” means a county council or a county borough council;

“part time attendant” means a person who works at least 18.5 hours per week;

“puppy” means a dog which is less than 6 months old;

“socialisation programme” means a written document approved by the local authority detailing how puppies will be introduced to human handling, domestic environments, play and how they will be prepared for separation from the dam.

Licensing of Dog Breeders

4.—(1) The activity described in paragraph 2 below is an activity for the purposes of section 13(1) of the Act.

(2) It is unlawful for any person to keep 3 or more breeding bitches and-

- (a) breed 2 or more litters of puppies in any 12 month period;
- (b) advertise 10 or more puppies for sale in any 12 month period;
- (c) supply 10 or more puppies to any person in any 12 month period;
- (d) advertise a business of breeding or selling puppies;
- (e) occupy premises which hold a planning consent authorising dog breeding; or
- (f) keep 3 or more breeding bitches in kennel accommodation which an Inspector reasonably believes is consistent with commercial dog breeding.

without the authority of a licence granted under these Regulations.

(3) For the purposes of paragraph (1) any dog found on premises will be presumed to be owned by the occupier of those premises until the contrary is proved.

PART 2

Issuing of Licences

5.—(1) A local authority must —

- (a) on the receipt of an application in writing for a licence giving such information as the local authority may require, grant a licence to the applicant, or renew a licence, if it is satisfied that the licensing conditions are or will be met and any appropriate fee has been paid in accordance with regulation 10, and not otherwise;

- (b) carry out an inspection of the applicant's premises to satisfy itself that the licensing conditions are or will be met before granting or renewing a licence;
- (c) state on a licence the maximum number of dogs to be kept under the terms of the licence.
- (d) specify a minimum staff ratio on each licence of-
 - (i) 1 full time attendant per 20 dogs kept; or
 - (ii) 1 part-time attendant per 10 dogs kept
- (e) specify such conditions in the licence as appear to it necessary to ensure the matters set out in Part 1 of the Schedule are met.; and
- (f) have regard in the carrying out of its functions under these Regulations to such guidance as may be issued by the Welsh Ministers.

(2) The local authority may grant or renew a licence for any period of up to 3 years.

(3) Prior to granting or renewing a licence, in considering whether the licensing conditions will be met, a local authority is entitled to take account of the applicant's conduct or any other circumstances that the local authority considers are relevant.

(4) All licences granted under paragraph (1) are subject to the licensing conditions contained in the Schedule to these Regulations.

People who may not apply for a licence

6. No person may apply for a licence if they are disqualified under--

- (a) section 34 of the Animal Welfare Act 2006;
- (b) section 40(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006 (disqualification orders);
- (c) section 3(3) of the Breeding of Dogs Act 1973 from keeping a breeding establishment;
- (d) section 4(3) of the Riding Establishments Act 1964 from keeping a riding establishment;
- (e) section 3(3) of the Animal Boarding Establishments Act 1963 from keeping a boarding establishment;
- (f) section 1(1) of the Protection of Animals (Amendment) Act 1954 from having custody of an animal;
- (g) section 5(3) of the Pet Animals Act 1951 from keeping a pet shop; or
- (h) section 3 of the Protection of Animals Act 1911 from the ownership of an animal;

and any licence issued to a person so disqualified is invalid.

Death of a Licence Holder

7.—(1) In the event of the death of the licence holder, that licence is deemed to have been granted to personal representatives of the licence holder and remains in force for a period of three months beginning with the death, but remains subject to the provisions in Part 3.

(2) The personal representative must notify the local authority which issued the licence that the licence has vested in them within 4 weeks of the death of the licence holder.

Fees

8.—(1) A local authority may charge such fees as it considers necessary—

- (a) for the consideration of an application for a licence; and
- (b) for the grant or renewal of a licence.

(2) The fee charged for consideration of an application for a licence must not exceed the reasonable costs of carrying out that consideration.

(3) The fee charged for granting or renewing a licence must not exceed the sum of the costs of making the grant or renewal and the reasonable anticipated costs of future monitoring of compliance with these Regulations and the licence conditions by the licence holder.

PART 3

Suspension and Revocation of a Licence

Grounds for Suspension

9. A local authority may suspend a licence at any time on being satisfied that the licensing conditions have not been complied with.

Procedure for suspension

10. If a licence is suspended the local authority must notify the licence holder in writing without undue delay, by way of a notice of suspension in accordance with regulation 11 and, unless the local authority directs otherwise, the suspension has immediate effect, and continues in effect unless the licence is reinstated.

Notice of suspension

11. A notice of suspension must—

- (a) state the local authority's grounds for believing that the licensing conditions are not being complied with;
- (b) specify the measures that, in the local authority's opinion, the licence holder must take in order to secure compliance;
- (c) set out the right of appeal to a magistrates' court; and
- (d) set out the period within which such an appeal may be brought.

Reinstatement of licence

12.—(1) A local authority must reinstate a suspended licence by way of notice once it is satisfied that the licensing conditions have been or will be complied with.

(2) Where a licence is reinstated under paragraph (1) the period for which it is issued may be varied.

Revocation of licence

13.—(1) The local authority may revoke a licence that has been suspended for more than 28 days unless there is an outstanding appeal to the magistrates' court, and may publicise a revocation in such manner as the local authority sees fit.

(2) When a local authority revokes a licence it must notify the holder in writing and revocation takes effect from the time of notification.

(3) Where a licence holder is disqualified under any of the enactments listed in regulation 6 their licence is automatically revoked when the time limit for any appeal against that disqualification expires or, if an appeal is made, when that appeal is refused.

Appeals

14.—(1) Any person who is aggrieved by the refusal to grant or renew, or the decision to suspend or revoke a licence may appeal to a magistrates' court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint, and the Magistrates' Courts Act 1980 applies to the proceedings.

(3) The period within which an appeal may be brought is 28 day beginning with the day following the date on which the decision is notified.

PART 4

Miscellaneous provisions

Power to take samples

15. An Inspector may, for the purposes of ensuring the provisions of these Regulations are being complied with, take saliva or hair samples from any dog on the licence holder's premises for DNA testing.

Duty to assist in the taking of samples

16. The licence holder must comply with any reasonable request of an inspector in order to facilitate the identification, examination of a dog and the taking of samples in accordance with Regulation 15 and in particular must arrange the penning of a dog if so requested.

Powers of Entry

17. An offence under these Regulations must be treated as a relevant offence for the purpose of section 23 of the Act (entry and search under warrant in connection with offences).

Post Conviction Powers

18. The relevant power convictions powers contained in section 34, 35 and 42 of the Act apply in relation to a conviction for an offence under this regulation.

Offences

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

- (a) act in breach of regulation 4; or
- (b) contravene any condition of a licence,

and a person guilty of such offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or both.

Transitional provisions

20. Licences granted under the Breeding of Dogs Act 1973 will continue to have effect as if they were a licence granted under regulation 5.

Enforcement

21. These Regulations are enforced by the local authority.

Signature
Minister for Rural Affairs, one of the Welsh Ministers.
Date

SCHEDULE

LICENSING CONDITIONS

Regulation 5

PART 1

Condition 1: Accommodation & Environment

1. Dogs will at all times be kept in accommodation that is appropriate in construction, size, exercise facilities, temperature, lighting, ventilation, cleanliness and with appropriate bedding. Appropriate whelping facilities must be available.

Condition 2: Diet

2. Dogs must be supplied with suitable food and drink.

Condition 3: Normal Behaviour

3. Dogs must be supplied with adequate facilities to enable them to exhibit normal behaviour patterns.

Condition 4: Enhancement and Enrichment

4. The licence holder must have a written enhancement and enrichment programme approved by the local authority.

Condition 5: Socialisation

5. The licence holder must have a socialisation programme approved by the local authority.

Condition 6: Health

6. Licence holders must take all reasonable steps to protect dogs from pain, suffering, injury and disease.

PART 2

Condition 7: Mating

7.—A breeding bitch may not:

- (1) be mated until she is 12 months old;
- (2) give birth to more than 1 litter of puppies in a 12 month period; or
- (3) give birth to more than 6 litters of puppies in total.

Condition 8: Change of ownership of a puppy

8. The licence holder must retain ownership and possession of a puppy until a puppy is at least 56 days old.

Condition 9: Identification of Breeding Bitches

9.—(1) All breeding bitches must be identified with a microchip.

(2) The microchip referred to in sub-paragraph (1) must-

- (a) have a unique number;
- (b) comply with either ISO standard 11784:1996 or Annex A to ISO standard 11785:1996 of the International Standards Organisation's standards for microchips; and
- (c) be registered on a database in relation to which the licence holder reasonably believes the requirements set out in Condition 13 of this Schedule are met.

Condition 10: Identification of Puppies

10. —(1) A puppy must be identified with a microchip before it:

- (a) is 56 days old; or
- (b) leaves the licence holder's premises with a view to a change of ownership;

whichever is the later.

(2) The microchip referred to in sub-paragraph (1) must-

- (a) have a unique number;
- (b) comply with either ISO standard 11784:1996 or Annex A to ISO standard 11785:1996 of the International Standards Organisation's standards for microchips; and
- (c) be registered on a database in relation to which the licence holder reasonably believes the requirements set out in Condition 13 of this Schedule are met.

(3) The licence holder must register as the first registered owner of any puppy born on the licence holder's premises before:

- (i) the puppy departs the licence holder's premises with a view to changing ownership; or
- (ii) the licence holder transfers ownership of the puppy to a third party.

(4) On transfer of ownership of a puppy the licence holder must submit the details of the new owner to the database operator.

Condition 11 : Record Requirements

11.—(1) The licence holder must maintain a written record in relation to each breeding bitch kept setting out her:

- (a) Name

- (b) Date of Birth
- (c) Breed
- (d) Physical Description including colour and identifying features.
- (e) Health Status
- (f) Unique microchip number;
- (g) Mating details including:
 - (i) Name, breed and unique microchip number of the sire.
 - (ii) Details of each puppy born including
 - (aa) date of birth;
 - (bb) microchip number of each puppy; and
 - (cc) when ownership is transferred, the name and address of the new owner of each puppy.

(2) When ownership of a breeding bitch is transferred the name address and contact telephone number of the new owners must be completed and a copy of the record must be provided to the new owner and a copy retained by the licence holder.

(3) The record referred to in paragraph 1 must be available for inspection by an inspector and retained by the licence holder for the lifetime of the breeding bitch.

Condition 12

12.—(1) In relation to each puppy born to a breeding bitch registered to the licence holder a record must be maintained confirming the following details in relation to each puppy:

- (a) Sex
- (b) Date of birth
- (c) Breed
- (d) Physical Description including colour and identifying features.
- (e) Health status
- (f) Unique microchip number.
- (g) Name, breed and unique microchip number of the dam
- (h) Name, breed and unique microchip number of the sire.

(2) When ownership of a puppy is transferred the name address and contact telephone number of the new owners must be completed and a copy of the record must be provided to the new owner and a copy retained by the licence holder.

(3) The record referred to in paragraph 1 must be available for inspection by the licensing authority at any time and retained by the licence holder 3 years from the date of birth of the puppy.

Condition 13: Contents of database

13. — The database must contain the following information in relation to each dog registered-

- (a) the name and address of the owner.
- (b) a telephone contact number for each owner
- (c) the name of the dog
- (d) the microchip number
- (e) the breed of the dog
- (f) the sex of the dog
- (g) the date of birth of the dog

and be accurate and updated on a regular basis.