

Draft Regulations laid before the National Assembly for Wales under section 61(2) of the Animal Welfare Act 2006 (and paragraph 34 of Schedule 11 to the Government of Wales Act 2006), for approval by resolution of the Assembly.

DRAFT WELSH STATUTORY
INSTRUMENTS

2013 No. (W.)

ANIMALS, WALES

ANIMAL WELFARE

**The Animal Welfare (Breeding of
Dogs) (Wales) Regulations 2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the licensing of persons involved in the breeding of dogs. Part 2 of the Regulations specifies dog breeding for the purposes of section 13(1) of the Animal Welfare Act 2006 (c.45) (“the Act”). The consequence of this specification is that, subject to qualifying criteria, any person wishing to breed dogs in Wales must obtain a licence from their local authority under these Regulations. This requirement replaces the requirement to obtain a licence under the Breeding of Dogs Act 1973 in Wales.

A person who breeds dogs in Wales without a licence under these Regulations commits an offence under section 13(6) of the Animal Welfare Act 2006 and is liable to imprisonment for a term of up to 6 months or a fine not exceeding level 5 on the standard scale or both. Under section 30 of the Animal Welfare Act 2006 local authorities may prosecute for any offence under the Act.

Part 3 of the Regulations sets 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 granting and renewing of a licence. It provides for a local authority to charge fees to cover any reasonable expenses incurred in performing this function and for monitoring compliance with these Regulations. It requires a local authority have regard to guidance issued by the Welsh

Ministers in carrying out their functions under these Regulations.

Part 4 sets out circumstances in which a licence maybe suspended, varied or revoked. Part 5 also provides for appeals against licensing decisions by local authorities.

Part 6 provides that a breach of a condition of a licence granted under these Regulations is an offence. It provides powers for inspectors to take samples and enter premises and applies relevant post conviction powers contained in the Act. It provides for local authorities to enforce the Regulations. It provides that licences granted under the Breeding of Dogs Act 1973 continue to have effect as if granted under these Regulations.

Schedule 1 to these Regulations sets out compulsory licence conditions which must be included on each licence granted by a local authority.

Schedule 2 to these Regulations amends the Breeding of Dogs Act 1973 and amends references to it in four Acts consequential upon its repeal in relation to Wales.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government Cathays Park, Cardiff CF10 3NQ.

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**The Animal Welfare (Breeding of
Dogs) (Wales) Regulations 2013**

Made

Coming into force

1 January 2014

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(2), (7), (8)(e), (10) and Parts 1 and 3 of Schedule 1 to 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⁽³⁾, a draft of this instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

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- (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) 2006 c.45. By virtue of section 162 of, and paragraph 34 of Schedule 11 to, the Government of Wales Act 2006 (c.32), the reference in section 61(2) to “House of Parliament” includes the National Assembly for Wales.

PART 1

Introduction

Title, application and commencement

1.—(1) The title of these Regulations is the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2013.

(2) They apply in relation to Wales and come into force on 1 January 2014.

Repeal of section 1 (1) of the Breeding of Dogs Act 1973

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

Interpretation

3. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Animal Welfare Act 2006;

“breeding bitch” (“*gast fridio*”) means an un-neutered female dog over the age of 6 months;

“draft enhancement and enrichment programme” (“*rhaglen wella a chyfoethogi ddrafft*”) means a document detailing how dogs will have the opportunity to express normal behaviour patterns submitted by the applicant to the local authority under regulation 7;

“draft socialisation programme” (“*rhaglen gymdeithasoli ddrafft*”) means a document detailing how dogs will be introduced to human handling, domestic environments, play and how they will be prepared for separation from the dam submitted by the applicant to the local authority under regulation 7;

“enhancement and enrichment programme” (“*rhaglen wella a chyfoethogi*”) means a document approved in writing by the local authority detailing how dogs will have the opportunity to express normal behaviour patterns;

“full-time attendant” (“*gweinydd llawn-amser*”) means a person who works, either paid or unpaid, at least 37 hours per week;

“inspector” (“*arolygydd*”) 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” (“*trwydded*”) means a licence granted under regulation 8;

“licence conditions” (“*amodau trwydded*”) means those conditions set out in Schedule 1 to these

Regulations and any further conditions attached to a licence by the local authority;

“local authority” (“*awdurdod lleol*”) means the county council or a county borough council in whose area the applicant for a licence under regulation 7 carries out the activity of dog breeding;

“part-time attendant” (“*gweinydd rhan-amser*”) means a person who works, either paid or unpaid, between 18.5 and 37 hours per week;

“puppy” (“*ci bach*”) means a dog under the age of 6 months;

“stud dog” (“*ci gre*”) means an un-neutered male dog over the age of 6 months;

“socialisation programme” (“*rhaglen gymdeithasoli*”) means a document approved in writing 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.

PART 2

Requirement to hold a licence

Licensing of dog breeders

4. Dog breeding is a specified activity, for the purposes of section 13(1) of the Act.

Dog breeding: interpretation

5.—(1) A person carries on the activity of dog breeding for the purposes of section 13(1) of the Act if that person keeps on premises 3 or more breeding bitches and—

- (a) breeds on those premises 3 or more litters of puppies in any 12 month period;
- (b) advertises for sale from those premises a puppy or puppies born from 3 or more litters of puppies for sale in any 12 month period;
- (c) supplies from those premises a puppy or puppies born from 3 or more litters of puppies in any 12 month period;
- (d) advertises a business of breeding or selling puppies from those premises; or
- (e) occupies premises which benefit from a planning consent authorising dog breeding.

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

(3) For the purposes of paragraphs (1) (a) to (c) it is immaterial whether or not the litters of puppies are bred from the breeding bitches referred to in paragraph 5(1).

(4) This regulation is subject to regulation 6.

Dog breeding: exclusion

6.—(1) A person does not carry on the activity of dog breeding for the purposes of section 13(1) of the Act if the dogs mentioned in regulation 5 are bred—

- (a) for use in regulated procedures, and
- (b) at a place specified in a section 2C licence by virtue of section 2B(2) (b) of the Animals (Scientific Procedures) Act 1986.

(2) In subsection (1) “regulated procedure” and “section 2C licence” have the meaning given by section 30 of that Act.

PART 3

Licences

Application for a licence

7.—(1) To apply for a licence under these Regulations an applicant must submit—

- (a) an application in a form and manner approved by the local authority;
- (b) a draft enhancement and enrichment programme;
- (c) a draft socialisation programme; and
- (d) such supporting documentation as the authority reasonably requires.

(2) The applicant must pay any appropriate fee in accordance with regulation 12.

Grant or renewal of licences

8.—(1) On receipt of an application complying with regulation 7, a local authority must inspect the applicant’s premises and if satisfied—

- (a) the licence conditions are or will be met;
- (b) with the enhancement and enrichment programme;
- (c) with the socialisation programme; and
- (d) as to any other matters the local authority considers relevant;

may grant a licence to the applicant.

(2) The local authority must attach to each licence granted—

- (a) the conditions contained in Schedule 1 to these Regulations;
- (b) a condition specifying the maximum number of dogs to be kept under the terms of the licence; and
- (c) a condition specifying a staff to dog ratio which must ensure as a minimum staff requirement—
 - (i) 1 full-time attendant per 20 dogs kept; or
 - (ii) 1 part-time attendant per 10 dogs kept.

(3) The local authority may grant or renew a licence for any period up to 1 year.

Consideration of applications for licences

9.— (1) When considering whether to grant or renew a licence the local authority must be satisfied that—

- (a) dogs are at all times kept in accommodation that is of an appropriate construction and size, with appropriate exercise facilities, temperature, lighting, ventilation and cleanliness;
- (b) appropriate whelping facilities are available;
- (c) dogs are supplied with suitable food, drink and bedding; and
- (d) dogs are supplied with adequate facilities to enable them to exhibit normal behaviour patterns.

(2) Prior to granting or renewing a licence, in considering whether the licence 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.

People who may not apply for a licence

10. No person may apply for a licence if they are disqualified under—

- (a) section 33 of the Welfare of Animals Act (Northern Ireland) 2011⁽¹⁾;
- (b) section 34 of the Act;
- (c) section 40(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006⁽²⁾
- (d) section 33A of the Dogs (Northern Ireland) Order 1983⁽³⁾;
- (e) section 3(3) of the Breeding of Dogs Act 1973⁽¹⁾ from keeping a breeding establishment;

(1) 2011 c. 16.

(2) 2006 asp 11.

(3) 1983/764 (N.I. 8).

- (f) section 4(3) of the Riding Establishments Act 1964 from keeping a riding establishment(2);
 - (g) section 3(3) of the Animal Boarding Establishments Act 1963 from keeping a boarding establishment(3);
 - (h) section 1(1) of the Protection of Animals (Amendment) Act 1954 from having custody of an animal(4);
 - (i) section 5(3) of the Pet Animals Act 1951 from keeping a pet shop(5); or
 - (j) section 6(2) of the Dangerous Wild Animals Act 1976 from the ownership of an animal(6)
- and any licence issued to a person so disqualified is invalid.

Death of a licence holder

11.—

(1) If the licence holder dies that licence is deemed to have been granted to the personal representatives of the licence holder so long as none of the personal representatives is subject to an order for disqualification under any of the provisions set out in regulation 10, and remains in force for a period of three months beginning with the date of death, but remains subject to the provisions in Part 3.

(2) The personal representatives 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.

(3) A local authority may, on the application of those personal representatives, extend the period of 3 months referred to in paragraph (1) if the local authority is satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make extension undesirable.

Fees

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

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- (1) 1973 c.60 Section 3(3) was amended by section 5(1) of the Breeding and Sale of Dogs (Welfare) Act 1999 (1999 c.11).
 - (2) 1964 c. 70 Section 4(3) was amended by section 64 of, and paragraph 6(2) of Schedule 3 to, the Animal Welfare Act 2006.
 - (3) 1963 c. 43 Section 3(3) was amended by section 64 of, and paragraph 5(2) of Schedule 3 to, the Animal Welfare Act 2006.
 - (4) 1954 c.40. Section 1 was repealed by section 65 of, and Schedule 4 to, the Animal Welfare Act 2006.
 - (5) 1951 c.35 Section 5(3) was amended by section 64 of, and paragraph 3(2) of Schedule 3 to, the Animal Welfare Act 2006.
 - (6) 1976 c.38. Section 6(2) was amended by section 64 of, and paragraph 9 of Schedule 3 to, the Animal Welfare Act 2006.

- (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.

Guidance

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

PART 4

Suspension, Variation and Revocation of a Licence

Grounds for suspension and variation

14. A local authority may at any time suspend or vary a licence on being satisfied that—

- (a) the matters referred to in regulation 9(1)(a) to (d) are not satisfied;
- (b) the licence conditions are not being complied with;
- (c) there has been a breach of these Regulations;
- (d) information supplied by the licence holder is false; or
- (e) it is necessary to protect the welfare of an animal.

Procedure for suspension and variation

15.—(1) A suspension or licence variation under regulation 14 has effect at the end of the period of 7 days beginning with the date of service of the notice of suspension or notice of variation.

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

(3) A notice of suspension or variation must—

- (a) state the local authority's grounds for suspension or variation;
- (b) state when it comes into effect;

- (c) specify measures that the local authority considers are necessary in order to remedy the grounds; and
- (d) explain the right of the licence holder to make written representations in accordance with paragraph (4) and give the details of the person to whom such representations may be made and the date by which they must be made.

(4) Where the notice does not have immediate effect the licence holder may make written representations against the notice to the local authority within 7 days of the date of service of the notice.

(5) Where representations are made under paragraph (4), the suspension or variation does not have effect until the local authority considers the representations and makes a determination on them in accordance with paragraph (6).

(6) The local authority must make a determination of the representations in writing with reasons to the licence holder within 7 days of receipt of those representations.

(7) If a licence has been suspended for more than 28 days the local authority must—

- (a) reinstate a suspended licence; or
- (b) revoke a suspended licence.

Reinstatement of licence

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

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

Grounds for revocation of a licence

17.—(1) The local authority may revoke a licence on being satisfied that—

- (a) the matters referred to in regulation 9(1)(a) to (d) are not satisfied;
- (b) the licence conditions are not being complied with;
- (c) there has been a breach of these Regulations;
- (d) information supplied by the licence holder is false; or
- (e) it is necessary to protect the welfare of an animal;

(2) Where a licence holder is disqualified under any of the enactments listed in regulation 10 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.

Notice of revocation

18. A notice of revocation must—

- (a) state the local authority's grounds for revocation;
- (b) state when it comes into effect; and
- (c) set out the right of appeal to a magistrates' court.

PART 5

Appeals

Right of Appeal

19.—(1) Any person who is aggrieved by the refusal to grant or renew, or the decision to 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(1) applies to the proceedings.

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

PART 6

Miscellaneous provisions

Power to take samples

20. An inspector may, for the purposes of ensuring the provisions of these Regulations are being complied with, take saliva or hair samples for DNA testing, from any dog on premises occupied by the licence holder.

Duty to assist in the taking of samples

21. The licence holder must comply with any reasonable request of an inspector in order to facilitate the identification and examination of a dog and the taking of samples in accordance with regulation 20 and, in particular, must arrange the penning of a dog if so requested by an inspector.

(1) 1980. c. 43.

Offences

22. It is an offence for a person, without lawful authority or excuse, to contravene any licence condition 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.

Powers of Entry

23. Breach of a licence condition 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

24. The relevant post conviction powers contained in sections 34, 35 and 42 of the Act apply in relation to a conviction for an offence of breach of a condition of a licence granted under these Regulations.

Transitional provisions

25. A licence granted under the Breeding of Dogs Act 1973 will continue to have effect as if it were a licence granted under regulation 5.

Consequential amendments

26. Schedule 2 (consequential amendments) has effect.

Enforcement

27. These Regulations are enforced by the local authority.

Signature

Minister for Natural Resources and Food, one of the Welsh Ministers

Date

SCHEDULES

SCHEDULE 1

Regulation 8(2)

PART 1

Licence Conditions

Condition 1: Enhancement and Enrichment

1. The licence holder must implement an enhancement and enrichment programme approved by the local authority.

Condition 2: Socialisation

2. The licence holder must implement a socialisation programme approved by the local authority.

Condition 3: Health

3. The licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.

Condition 4: Mating

4. The licence holder must ensure a breeding bitch

- (a) is not mated until she is 12 months old;
- (b) does not give birth to more than 1 litter of puppies in a 12 month period; and
- (c) does not give birth to more than 6 litters of puppies in total.

Condition 5: Change of ownership of a puppy

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

Condition 6: Identification of breeding bitches and stud dogs

6.—(1) The licence holder must ensure all breeding bitches and stud dogs are 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) within 7 days of implantation be registered on a database that the licence holder reasonably believes accurately records:
 - (i) the name, address and telephone number of the dog's owner;
 - (ii) the name of the dog;
 - (iii) the breed of the dog;
 - (iv) the sex of the dog;
 - (v) the date of birth of the dog; and
 - (vi) the unique microchip number.

Condition 7: Identification of puppies

7.—(1) The licence holder must ensure a puppy is identified with a microchip before it:

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

whichever is the later.

(2) The microchip referred to in sub-paragraph (1) must comply with paragraph 6(2) above.

(3) The licence holder must register as the first registered owner of any puppy on the database used to register the dog's microchip, in accordance with paragraph 6 (2)(c), before —

- (a) the puppy leaves the premises occupied by the licence holder with a view to changing ownership; or
- (b) the licence holder transfers ownership of the puppy to a third party;

whichever is the earlier.

(4) On transfer of ownership of a puppy, the licence holder must provide the information listed in paragraph 6(2)(c)(i) to the database the licence holder used to register the dog's microchip, in accordance with paragraph 6(2)(c), in relation to the new owner.

Condition 8 : Breeding bitch record requirements

8.—(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; and
- (ii) the following details in relation to each puppy born—
 - (aa) date of birth;
 - (bb) unique microchip number ; and
 - (cc) when ownership is transferred, the new owner's name and address.

(2) When ownership of a breeding bitch is transferred the name, address and telephone number of the new owner must be recorded by the licence holder on the record referred to in sub-paragraph (1) 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 sub-paragraph (1) must be available for inspection and retained by the licence holder for the lifetime of the breeding bitch.

Condition 9 : Puppy record requirements

9.—(1) The licence holder must maintain a written record 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; and
- (h) name, breed and unique microchip number of the sire.

(2) When ownership of a puppy is transferred, the name address and telephone number of the new owner must be recorded by the licence holder on the record referred to in sub-paragraph (1) 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 sub-paragraph (1) must be available for inspection by the local authority at any time and retained by the licence holder for 3 years from the date of birth of the puppy.

SCHEDULE 2

Amendment of Statutory Instruments

Regulation 2(4)

Breeding of Dogs Act 1973

1.—(1) The Breeding of Dogs Act 1973 is amended as follows.

(2) In section 1 (licensing of breeding establishments for dogs), after subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to Wales.”

(3) In section 5 (interpretation), in subsection (2), in the definition of “local authority”, omit “and in Wales the council of a county or county borough”.

Local Government (Wales) Act 1974

2. In Schedule 16 of the Local Government (Wales) Act 1994 (other consequential amendments), omit paragraph 42.

Guard Dogs Act 1975

3. In section 3 of the Guard Dogs Act 1975 (guard dog kennel licences), before subsection (6) insert –

“(5B) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to dog breeding in Wales, or of an offence under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2013, subsections (4) and (5) apply as they do to convictions under this Act.”

Dangerous Wild Animals Act 1976

4. At the end of section 6 of the Dangerous Wild Animals Act 1976 (penalties) insert—

“(3B) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to dog breeding in Wales, or of an offence under the Animal Welfare (Breeding of Dogs)(Wales) Regulations 2013, subsections (2) and (3) apply as they do to convictions under this Act”.

Zoo Licensing Act 1981

5. In section 4 of the Zoo Licensing Act 1981 (grant or refusal of licence), in subsection (5), insert at the end—

““section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to dog breeding in Wales;

the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2013.”