
PROPOSALS FOR IMPROVING THE EFFECTIVENESS OF THE DANGEROUS WILD ANIMALS ACT 1976 - CONSULTATION

1 SUMMARY

- 1.1 The Department for Environment, Food and Rural Affairs (DEFRA) is consulting on possible changes to this legislation. Comments must be sent by 20 September 2004.
- 1.2 A copy of the full consultation paper has been placed in the Members' Library.

2 INTRODUCTION

- 2.1 The Dangerous Wild Animals Act 1976 regulates the private keeping of animals listed in the schedule to the Act by means of a licensing regime administered by Local Authorities. The Act does not prohibit the keeping of such animals, but requires those keeping them to be licensed to ensure that they have the appropriate skills and facilities to secure public safety and the welfare of the animals.
- 2.2 The Government engaged the International Zoo Veterinary Group to conduct a review of the Act's effectiveness, because of anecdotal evidence of high levels of non-compliance. Their report confirmed that there is much circumstantial evidence of non-compliance, but reported the views of many keepers that the controls extend to non-dangerous species and that there are wide differences in fee levels and enforcement of the Act by Local Authorities.

3 OPTIONS

- 3.1 DEFRA has identified five options for consideration:
- A. Do nothing.
 - B. Improve enforcement of the existing controls.
 - C. Repeal the Act and rely on self-regulation.
 - D. Change the basic approach in legislation by defining a dangerous wild animal.
 - E. Amend the legislation to update the list of controlled species and to improve enforcement, and issue revised guidance to Local Authorities on the Act's application.

Option E is the Government's preferred option, with the proposed changes being:-

- **Revise the list of species in the Schedule to the Act.** This would remove those animals that are unlikely to pose a serious risk to

humans (such as small primates), and those covered by other controls (e.g. farmed ostriches and wild boars which are already subject to separate controls applying to domesticated farm stock); and to add others – particularly four species of poisonous snake, a species of scorpion and the dingo – that do seem to pose a danger. A certain cat hybrid (known as the “Bengal cat”) would also be excluded.

- **Introduce a requirement for Local Authorities to have regard to guidance on the Act issued by the Secretary of State.** The absence of up to date guidance on the operation of the Act has been a cause of confusion and inconsistency. Guidance will be issued on the provisions of the Act as amended, to which Local Authorities would be obliged to have regard.
- **Increase the period of validity of licences** from one calendar year to 18 consecutive months, so as to ease the bureaucratic burden for both keepers and Local Authorities.
- **Add new mandatory conditions to all licences** requiring the keeper to notify the Local Authority of any births, deaths, acquisitions, disposals or escapes of kept animals. Local Authorities would have the power to revoke licence if conditions were not being met.
- **Restrictions to the sale of controlled animals** – it is proposed to prohibit vendors (including pet shops) from selling controlled animals to an unlicensed keeper.
- **Local Authorities to be able to ask for the applicant to supply a disclosure of relevant recordable offences from the Criminal Records Bureau** when the basic disclosure service comes on stream. Although not all relevant offences will be covered by the basic disclosure provisions, it will nonetheless give some help to Local Authorities in judging whether applicants are suitable persons to hold a licence. Additional guidance would also be given to Local Authorities in exercising their judgement.
- **The Inspections** required before granting a licence would no longer have to be undertaken by veterinary surgeons or practitioners, but they would still have to be competent and independent. For example, zoo keepers and others might fulfil the role. It is proposed that the inspections must be undertaken at least every 18 months on licence renewal (instead of annually as at present), with the option of greater frequency if the Local Authority has good reason.
- **Increase powers of entry** to allow Local Authorities the power to enter premises, having first obtained a warrant, where they have good reason to believe animals are being kept without a licence.

- **Give keepers a right of appeal against seizure and disposal of their animals.** At present Local Authorities have power to seize and destroy animals kept in contravention of the Act or where a licence has not been complied with, with no right of appeal. It would be consistent with natural justice for keepers to be given the right of appeal against such action by the Authority.
- **Clarification of the “72 Hour” Rule.** This rule requires a Local Authority proposing to attach a condition to the licence permitting animals to be moved to premises outside its boundary for more than 72 hours to consult the Local Authority in which the other premises are located. The Act appeared to intend that licence conditions could allow animals to be moved for veterinary purposes, to film and TV studios and to fairs, but to give greater safeguards for periods longer than 72 hours. This remains a reasonable objective. However in practice the provisions are open to misunderstanding and could result in animals being kept in unsuitable, unlicensed premises. It is proposed to clarify this through guidance.
- **Recovery of costs arising from escapes** – Local Authorities will be entitled to recharge to the keeper their reasonable costs incurred in the recovery of an escaped animal.

4 COMMENT

- 4.1 The Animal Welfare Charter Sub-Committee has been considering issues for inclusion in the Council’s Animal Welfare Charter. They have heard evidence from a local Wildlife Consultant and have come to the conclusion that various aspects of the Dangerous Wild Animals Act 1976 need to be amended and strengthened broadly in line with option 5.
- 4.2 The proposal for licences to run for consecutive months, rather than a calendar year as at present makes sense, but to extend the licence period from one year to 18 months runs the risk of reducing the protection afforded to both the animal(s) and to the public, and extending the licence period is unlikely to deliver any significant cost savings to the Local Authority.

5 RESOURCE RISK

- 5.1 Overall there would be no significant reduction or increase in the cost to the Local Authority.
- 5.2 The Local Authority improved Power of Entry may lead to additional enforcement work, but it is anticipated that it would not need to be used very often.
- 5.3 There would also be costs associated with keeping any animal seized by the Local Authority pending on appeal against that action. These costs would

vary according to the number and type of animal seized. However, again, it is anticipated that this would occur infrequently.

6 ENVIRONMENTAL IMPLICATIONS

- 6.1 The consultation document reports that there is circumstantial evidence of wide-spread avoidance of the existing legislation.
- 6.2 Independent consultants who examined the effectiveness of the Act have concluded, amongst other things, that the Act regulates the keeping of some non-dangerous animals. Local Authorities also have limited powers of entry, which undermine enforcement of the controls.
- 6.3 Unless these and other shortcomings can be addressed and the Act made credible and effective, the risk of non-compliance grows and the possible threat to public safety becomes more real. Further, as non-compliance grows, the potential for unsuitable keepers to possess such animals also grows. This in turn could lead to keepers releasing these animals which adds to the threat to public safety and to native species.

7 RESOURCE IMPLICATIONS

- 7.1 There are no resource implications providing that the Authorities can continue to charge a reasonable licence fee and to recharge consultants fees to the applicant.
- 7.2 The Council's current fee is £113.00 plus consultant's (Veterinary Surgeon) fees.
- 7.3 The consultation document reports that some Local Authorities may be setting charges at an excessive level and this can act as a disincentive for people to apply for a licence. It is proposed that there will be guidance issued to Authorities on the reasonable costs that they can recover.

8 RECOMMENDATION

- 8.1 It is proposed that the Committee **RESOLVES**
- (1) To broadly support the amendment of the Act as set in Option E but not support the extension of the licence period from 12 to 18 months.
 - (2) To request that adequate resources be provided for Local Authorities to support effective enforcement.

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Background Papers:-

None

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