

MEMORANDUM FROM THE SCOTTISH GOVERNMENT TO THE RURAL AFFAIRS AND ISLANDS COMMITTEE

Introduction

1. This memorandum has been prepared by the Scottish Government to assist consideration by the Rural Affairs and Islands Committee of the Welfare of Dogs (Scotland) Bill (“the Bill”), which was introduced by Christine Grahame MSP on 20 June 2023.

Background

2. The Bill, as introduced:

- ◆ requires the Scottish Ministers to consult on and make a new code of practice that should be followed by any person who is considering acquiring a dog to keep as a pet, and by any person who is considering selling or giving away a dog to someone else;
- ◆ requires Scottish Ministers to take reasonable steps to ensure public awareness and understanding of the code of practice and its content;
- ◆ includes provision for Scottish Ministers to make regulations which provide for a register of unlicensed litters of puppies to be established; and
- ◆ requires Scottish Ministers to take reasonable steps to ensure public awareness and understanding of the licensed breeding regime and, at such a time as it is in place, the register of unlicensed litters.

3. The most important provisions of the Bill are:

Section 1: A requirement for Scottish Ministers to make and publish a code of practice regarding acquiring and supplying a dog, containing material in sections 2 to 4 and other matters considered appropriate after consultation. The code must take effect within six months of the Bill receiving Royal Assent.

Section 2 sets out a list of questions that a prospective acquirer of a dog of any age is to ask themselves before acquiring a dog. These relate to how the dog would fit into the prospective acquirer’s lifestyle and home environment and their ability to adequately care and provide for the dog throughout its life. It also stipulates that, where practical, the acquirer and the prospective supplier are to meet in person before agreeing to the transaction.

Section 3 sets out requirements in relation to the sale or transfer of puppies. Only dogs aged over 8 weeks are to be sold or transferred and, where practicable, the prospective acquirer is to see the puppy with its mother prior to the sale or transfer. The prospective acquirer is to check whether the person they are getting a dog from is either a licensed breeder or, at such a time as a register of unlicensed litters is in place, has registered the litter.

Section 4 provides that the prospective acquirer is to complete and sign a certificate before acquiring a dog of any age. The content of the certificate is specified and involves the acquirer confirming that they have considered the questions set out in section 2 and complied with the requirements in sections 3. It also provides that the prospective supplier is to sign the certificate which should be kept throughout the ownership of the dog and shown to a police officer or inspector on request.

Section 5: allows the code to be revised from time to time. However, it may not be revised in such a manner that it no longer reflects the content of sections 2 to 4 of the Bill.

Section 6 provides that failure by a person to comply with the code will not in itself make a person liable to civil or criminal proceedings. However, evidence that the person failed to comply with the code may be relied on as tending to establish liability if a person is prosecuted for a relevant animal welfare offence.

Section 7 requires Scottish Ministers to take reasonable steps to ensure that the public are aware of and understand the contents of the code.

Section 8 allows for Scottish Ministers to make regulations which would prohibit the sale, giving away or advertising of a puppy aged under 12 months unless the litter is registered, or the breeder is licensed. It provides for powers allowing the Scottish Ministers to make regulations to establish and operate a register of unlicensed litters of puppies, including provision for information that must be provided by the first owner; updating of information; public access to the register; and application of fees or other charges in relation to the register. Scottish Ministers may delegate to another person the power to arrange the establishment and operation of the register.

Section 9 allows Scottish Ministers to make regulations for incidental, supplementary, consequential, transitional, transitory or saving provision.

Section 10 allows for Scottish Ministers to make provision via regulations in order to ensure compliance with any regulations made under section 8 .

Section 11 requires Scottish Ministers to take steps to ensure that the public are aware of the circumstances in which a dog breeding licence is required and if and at such a time as a registration of unlicensed litters is established, the circumstances in which an unlicensed litter of puppies should be registered

Consultation

4. Ms Grahame considered and the Committee agreed that consultation was unnecessary as the proposals for this Bill were covered in the consultation for a bill of the same name previously proposed in 2019, that also included a proposal for reducing the threshold for requiring a dog breeding licence from five to three litters per year.

5. This reduced threshold was brought into effect by the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 . Consultation on that bill ran from 4 May to 30 July 2018 and attracted 92 consultation responses with 82% (75) of these being from private individuals. 10% (9) of responses came from Scottish local authorities as competent licensing authorities. There was strong overall support for Ms Grahame’s proposals:

- ◆ 91% of the respondents supported reducing the threshold for a breeding licence from five to three litters;
- ◆ 89% of the respondents supported the proposal to require people to be licensed as breeders even if they did not sell their puppies but transferred them or gave them away;
- ◆ 82% of the respondents supported the introduction of a temporary registration scheme. However, 13% were opposed to this proposal and responses quoted in the Summary of Responses suggest opposition from a number of local authorities on the basis of increased burden, little scope for cost recovery, difficulty to enforce and an unnecessary imposition on families breeding from a family pet; and
- ◆ 90% of the respondents supported the creation of an obligation for prospective owners to consider a questionnaire on their capacity to take on a dog; and 91% supported the imposition of a requirement on a breeder to check on completion of the questionnaire. However, many respondents questioned how this proposal might work in practice.

Purpose of the Bill and overlap with existing powers

6. Scottish Ministers already have powers to make codes of practice for the purpose of providing practical guidance under section 37 of the Animal Health and Welfare (Scotland) Act 2006, with an obligation to publicise these. Section 37 of the Animal Health and Welfare (Scotland) Act 2006 contains similar provision to section 6 of the Bill in that it provides that failure to comply with a code will not in itself make a person liable to proceedings, but that it may be relied upon as tending to establish liability in proceedings for an offence under relevant sections of the Animal Health and Welfare (Scotland) Act 2006. This Bill would however go further in requiring a code to be made to include the content specified in sections 2-4, following consultation, and within six months of Royal Assent.

7. Scottish Ministers also already have powers to make regulations to prohibit the carrying on, without the authority of registration for the purpose, of an activity which involves animals for which a person is responsible and for the purposes of protecting animal welfare under section 27 of the Animal Health and Welfare (Scotland) Act 2006. These existing powers are broadly equivalent to the new powers proposed in sections 8-10 of the Bill, so it is not clear what the benefit of sections 8-10 would be.

Financial Impact

8. The Financial Memorandum accompanying the Bill provides a summary of estimated costs related to preparing and publishing a code of practice and raising

awareness of the code, with a suggestion this would involve a similar cost to previous Scottish Government public awareness concerns.

9. Summary of costs for Code of Practice for Year One after bill coming into force:

- ◆ Producing and publishing code £10,000
- ◆ Raising public awareness £200,000- £250,000

10. Summary of costs for Code of Practice for every 5 years after initial outlay stated above:

- ◆ Producing and publishing code £10,000
- ◆ Raising public awareness £55,000

11. It goes on to provide estimated costs if a compulsory registration scheme was to be established using the powers in the Bill, although the Bill as introduced does not actually require a scheme to be established.

12. Summary of costs for Register of unlicensed litters:

- ◆ Establishing register £21,500
- ◆ Maintaining register £16,000 (recurring cost each year that the register is in place)
- ◆ Publishing guidance £2,000-£5,000
- ◆ Local Authorities' cost of enforcing register £60,000-£90,000 (recurring cost each year that the register is in place)

13. Summary of other costs:

- ◆ Raising public awareness of licensing/registration arrangements £200,000-£250,000

14. Summary of Total Costs for whole Bill:

- ◆ Year One after Bill coming into Force - £210,000-£260,000
- ◆ Every 5 years - £67,000-£70,000
- ◆ On a date to be determined by Scottish Government - £299,500-£382,500
- ◆ An additional £76,000-£106,000 for each year following that the register is in place.

Scottish Government's Position

15. The Scottish Government is committed to achieving the highest standards of animal welfare and supports the general intention of the Bill in attempting to increase public awareness of responsible behaviour when acquiring a dog by providing practical guidance which may help drive behavioural change.

16. The Scottish Government is also aware of the frustration of animal welfare organisations that have been promoting more responsible behaviour by buyers and seeking tighter controls on those selling puppies as there continue to be significant welfare problems associated with the illegal activities of unscrupulous dealers fraudulently posing as home breeders. The Scottish Government is not however convinced that developing a registration scheme would be an effective or proportionate way of tackling these issues in practice that should be prioritised over other animal welfare commitments at this time, and is not convinced there is a need for new powers that duplicate existing powers to establish such a scheme.

Conclusion

17. For the reasons given, the Scottish Government will support the general principles of the Bill and may seek amendments to address issues that are identified.