

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Welfare of Dogs (Scotland) Bill

Financial Memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Welfare of Dogs (Scotland) Bill, introduced in the Scottish Parliament on 1 June 2020. It has been prepared by the Parliament's Non-Government Bills Unit on behalf of Christine Grahame MSP, the member who introduced the Bill.
2. The following other accompanying documents are published separately:
 - statements on legislative competence by the Presiding Officer and the member who introduced the Bill (SP Bill 74–LC);
 - Explanatory Notes (SP Bill 74–EN);
 - a Policy Memorandum (SP Bill 74–PM).

Background

Policy objectives of the Bill

3. The Welfare of Dogs (Scotland) Bill aims to improve the overall health and wellbeing of dogs throughout their lives by strengthening the regulation of the activity of breeding, and of selling or transferring dogs, and by establishing a more responsible and informed approach to acquiring and owning a puppy or dog.
4. The underlying motivation for the Bill is to improve the welfare of dogs. The member believes that legislation can stimulate more responsible breeder and owner behaviour and create a culture where those seeking to

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

buy a puppy are more informed about where the puppy has come from, and the responsibilities that accompany becoming a dog-owner.

Main provisions of the Bill

5. The Bill:

(a) amends the licensing regime for puppy breeders, by reducing the maximum number of litters that can be bred in a 12-month period before a dog breeding licence is required (with a licence now required from the third litter instead of the fifth); extends the breeding licensing regime to any form of transfer, not only sale; and requires the inclusion of the licence number in any advertisement for the sale or transfer of the puppies (Part 1);

(b) requires the Scottish Ministers to establish a puppy litter register; prohibits puppies from litters not bred as part of a licensed activity being advertised, sold or transferred unless the litter has been registered; and requires the litter registration number to be included in any advertisement (Part 2); and

(c) requires the Scottish Ministers to create a code of practice that should be followed by a person who is considering acquiring a dog to keep as a pet, and by a person who is considering selling or giving away a dog to someone else. The schedule to the Bill sets out the essential content of the code. It includes measures to promote a more responsible and informed approach to acquiring and owning a puppy or dog (Part 3).

6. By lowering the licensing threshold (from five or more litters in a 12-month period to three or more) and requiring a licence for transfers as well as sales, the Bill aims to improve welfare standards and provide consistency with breeding regulations across the UK. In doing so, it will increase the number of breeders falling into the licensing regime.

7. Other litters, that are not bred as part of a licensed activity in Scotland, must be registered before the puppies are advertised, sold or transferred to another owner. This aims to improve the overall traceability of puppies in Scotland and help identify anyone breeding more than two litters in a year who should therefore be licensed.

8. The Bill also aims to encourage behavioural change and more responsible dog ownership, in particular through the code of practice. It

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

seeks to create a culture in which anyone acquiring a puppy checks that the person they are getting the puppy from is either a licensed breeder or has registered the litter and, where practicable, sees the puppy with its mother. The code will also set out that anyone acquiring a puppy, or a dog, should consider for themselves a set of questions about their capacity to take on the responsibility of caring for the puppy or dog, and that the person selling or transferring the puppy or dog should check that the acquirer has asked those questions and can answer them satisfactorily.

Data and methodology

9. For the purposes of this Financial Memorandum it is helpful to establish an estimate for the number of breeders (both unlicensed and licensed) who breed puppies each year in Scotland, and the number of litters of puppies born each year in Scotland. This then enables estimates for the number of breeders who will fall under the new breeding licensing requirements, the number of litters that will require to be registered on a Scotland-wide register of puppy litters, and for the costs associated with these new requirements.

10. However, it should be noted that obtaining precise figures for the number of unlicensed and licensed breeders, and number of litters of puppies born, is problematic. The Scottish Government has also acknowledged that obtaining exact figures for the annual market for puppies and dogs is difficult.¹

11. Some sources equate the number of licensed breeders with the numbers of licences issued by local authorities. This assumes that each breeder has one licence and breeds all their dogs on the same premises, although it is understood that, in practice, there may be occasions where a breeder has more than one licensed premises or breeds a litter (e.g. from a pet dog of their own) that doesn't form part of the licensed activity. This Financial Memorandum assumes that references to a "licensed breeder" equate to one breeding establishment that is licensed under Breeding of

¹ Licensing of Dog, Cat and Rabbit Breeding Activities in Scotland, Consultation Document, Scottish Government, September 2018, pg.5. Available at https://consult.gov.scot/animal-welfare/pet-breeding-activities/user_uploads/250237_sct0818243792-001_breeding_p2.pdf. Accessed on 25 March 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Dogs Act 1973 and that references to “licensed premises” equate to one licensed breeder.

Number of breeders

12. The animal welfare organisation OneKind estimates that there are 100 licensed breeders operating in Scotland.² Under current legislation, anyone who carries on a business of breeding dogs for sale, or who keeps on premises bitches that together produce five or more litters in a 12-month period (so long as at least some of the puppies are sold), must have a dog breeding licence for those premises.³ In a response to a report by the House of Commons Environment, Food and Rural Affairs Committee, the UK Government stated that, in addition to an estimated 600 licensed dog breeders in England, “up to around 5,000 breeders might be breeding either three or four litters per year, and that up to around 10,000 breeders might be breeding two litters per year.”⁴

13. It would be reasonable to assume that the ratio of unlicensed to licensed breeders is the same in Scotland (with 100 licensed breeders) as in England (which has 600). On this basis, it can be estimated that, in addition to approximately 100 licensed breeders in Scotland, there are around 833 people breeding either three or four litters per year, and around 1,667 people breeding two litters per year.⁵ This would suggest that an additional 833 people would require to apply for a breeding licence as a result of the Bill.

² Scotland’s Puppy Profiteers, OneKind, December 2017, p.16. Available at <https://www.onekind.scot/wp-content/uploads/The-Puppy-Profiteers-OneKind-DEC-17.pdf>. Accessed on 1 May 2020.

³ The Breeding of Dogs Act 1973

<http://www.legislation.gov.uk/ukpga/1973/60/contents> and Breeding and Sale of Dogs (Welfare) Act 1999

<http://www.legislation.gov.uk/ukpga/1999/11/contents> Both accessed on 25 March 2020.

⁴ Animal welfare in England: domestic pets: Government Response, January 2017. Available

at <https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/1003/100302.htm> Accessed on 25 March 2020.

⁵ $5,000/6 = 833$, $10,000/6 = 1,667$

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

14. According to the Scottish SPCA, there are 5,098 known breeders in Scotland.⁶ This would suggest that, in addition to the breeders having two or more litters of puppies a year, there are around 2,498 breeders breeding only one litter of puppies per year.⁷ On the basis of these figures this would mean that of the *known* breeders, 4,165 would need to register litters (i.e. the 1,667 breeding two litters and 2,498 breeding one litter) in a puppy litter register, under the Bill's provisions.⁸ The figure may be higher if there are additional breeders who are not known to the SSPCA and other agencies.

Table 1: Estimated numbers of breeders in England and Scotland

	England	Scotland
Licensed breeders	600	100
Breeders of 3-4 litters per year	5,000	833
Breeders of 2 litters per year	10,000	1,667
Breeders of 1 litter per year	Not known	2,498
Total	Not known	5,098

Note: All figures are approximate

Number of litters of puppies

15. The above estimate in Table 1 of 1,667 people breeding two litters per year, and 2,498 breeding one litter, would suggest that there are an estimated 4,165 people who will be required to register their litters of puppies under Part 2 of the Bill. It is also therefore estimated that 5,832 litters will require to be registered annually on the national puppy register, as shown in Table 2, below.⁹

⁶ Source: email from the Scottish SPCA to the Non-Government Bills Unit.

⁷ $5,098 - (1,667 + 833 + 100) = 2,498$

⁸ $1,667 + 2,498$. In practice, a small number of these may breed only one litter and keep all the puppies, and so not need to register.

⁹ $(1,667 \times 2) + 2,498 = 5,832$.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Table 2: Estimated numbers of puppy litters born annually in Scotland

	Number of Scottish breeders	Number of litters
Licensed breeders	100	1,193 ¹⁰
Breeders of 3-4 litters per year	833	2,916 ¹¹
Breeders of 2 litters per year	1,667	3,334
Breeders of 1 litter per year	2,498	2,498
Total number required to register annually	4,165	5,832
Total	5,098	9,941

Note: All figures are approximate

¹⁰ Battersea and Blue Cross estimate that less than 12% of puppies born in the UK each year are born to licensed breeders. Licensed Dog Breeding in Great Britain: Battersea Breeding Report, pg. 8, <http://www.bdch.org.uk/files/Licensed-Dog-Breeding-in-Great-Britain-report.pdf> Accessed on 25 March 2020 and Unpicking the Knots: The case for a more cohesive approach to pet welfare legislation, <https://www.bluecross.org.uk/sites/default/files/downloads/Unpicking%20the%20Knots%20report.pdf> Accessed on 25 March 2020.

From the figures in Table 1 above, and assuming that breeders who breed 3 or 4 litters a year breed 3.5 litters each on average, the total number of litters bred in a year by the unlicensed breeders is: $(833 \times 3.5) + (1,677 \times 2) + 2,498 = 8,747.5$ or 8,748. If 12% are from licensed breeders, the remaining 88% are from unlicensed breeders. If the 88% equates to 8,748 litters, then the 12% equates to 1,193 litters.

¹¹ Assuming that breeders who breed 3 or 4 litters a year breed 3.5 litters each on average.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

16. A Norwegian study of over 10,000 litters of 224 breeds gave an average litter size of 5.4.¹² Applying this litter size to the above total figure for puppy litters give an estimated population of 53,681 puppies born annually in Scotland, out of a dog population in 2019 of 710,000 dogs.¹³

Part 1 – Changes to licensing regime

17. Reducing the minimum number of litters bred in a 12-month period that triggers the requirement for a dog breeding licence, from five to three, will increase the number of breeders needing to meet licensing standards and undergo inspections. The Bill also limits the current exemption from licensing (for any breeder who can show that none of the dogs were sold), so that the only breeders exempted are those who neither sell nor give away any of the dogs bred. The effect is to extend the breeding licensing regime to any form of transfer, not only sale. This too may increase the number of breeders who require a breeding licence. There will also be a requirement on breeders to include their breeding licence number in any advertisement for the sale or transfer of any puppies.

18. As estimated above, 833 breeders currently breed three or four litters per year and would require a licence under the revised licensing requirement, which will apply to breeders of three or more litters per year. (Note that some of these breeders may already be licensed, despite breeding a number of litters that falls below the current threshold, so the number of additional licences may be fewer than 833.)

19. Local authorities have indicated that, in general, the costs of enforcing the licensing regime are met by fee income or out of existing budgets for the department responsible, for example Environmental Health.¹⁴ Current local authority fees range from £79 to £463.¹⁵ If a vet

¹² Sverdrup Borge, K., Tønnessen, R., Nødtvedt, A., and Indrebø, A., “Litter size at birth in purebred dogs – a retrospective study of 224 breeds” available at

<https://www.sciencedirect.com/science/article/abs/pii/S0093691X10005625?via%3Dihub> Accessed 30 April 2020.

¹³ Pet Food Manufacturers Association, Dog Population 2019, available at <https://www.pfma.org.uk/dog-population-2019> Accessed 30 April 2020.

¹⁴ Source: Information obtained from a request for information to local authorities from the Non-Government Bills Unit. Some local authorities

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

inspection is required for the initial inspection of the licensed premises, most local authorities charge the cost of this inspection to the breeder, in addition to the licence fee. For example, the City of Edinburgh Council charged a fee of £350 in 2020/21 for the annual application to have a licensed premises, and states that any vet inspection that is required prior to a licence being granted will incur an additional fee.¹⁶ Some local authorities charge a lower fee for a licence renewal in subsequent years.

20. The policy intention of the Bill is that the administration of the licensing regime should be a cost-neutral regime. It should continue to function on a cost-recovery basis with the fee covering at least the cost of local authority inspections and, as at present, it will be left to local authorities to decide on budget available from departmental budgets to cover additional enforcement costs.

Costs on the Scottish Administration

21. The Bill requires Scottish Ministers to make regulations under section 27(1) and (5)(a) of the Animal Health and Welfare (Scotland) Act 2006 in respect of carrying on the activity of keeping a dog breeding establishment. The cost of making these regulations is expected to be minimal and is likely to be absorbed within existing budgets, as Scottish Ministers have already announced, and consulted on, plans to bring in new regulations for the licensing of dog, cat and rabbit breeding activities in Scotland.¹⁷

responded that information about enforcement costs is not held or that there is no clear budgetary segregation of the costs associated with the work.

¹⁵ Information provided by 25 local authorities in response to an information request. The seven local authorities that are not included are: Falkirk Council; Glasgow City Council; North Lanarkshire Council; Perth and Kinross Council; Renfrewshire Council; Shetland Islands Council; and Stirling Council.

¹⁶ City of Edinburgh Council, Licence Application Fees & Charges, 2020/21, available at <https://www.edinburgh.gov.uk/downloads/file/23569/civic-licence-fees> Accessed 1 May 2020.

¹⁷ Scottish Government, Consultation on the Licensing of Dog, Cat and Rabbit Breeding Activities in Scotland, available at,

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Costs on the Crown Office and Procurator Fiscal Service and Scottish Courts and Tribunals Service

22. The Bill's provisions may lead to additional costs for the Crown Office and Procurator Fiscal Service (COPFS) and Scottish Courts and Tribunals Service (SCTS) if there is an increase in the number of prosecutions of individuals for the offence of keeping a breeding establishment for dogs without a licence (an offence under s.1(9) of the Breeding of Dogs Act 1973 ("the 1973 Act"), with a maximum penalty of 3 months' imprisonment or a fine at level 4 on the standard scale). In addition, there may be an increase in the number of people who commit the offence of wilfully obstructing or delaying any person in the exercise of his powers of entry or inspection in connection with the requirement to have a licence (an offence under section 2(2) of the 1973 Act, with a maximum penalty of a fine at level 3 on the standard scale¹⁸). The Bill provides for the creation of a new offence of not including a breeding licence number in any advertisement for the sale or transfer of a puppy.

23. The Scottish Government has confirmed¹⁹ that there have been only 3 offences prosecuted under the 1973 Act, of which 2 offences were prosecuted in 2008-9 and 1 offence prosecuted in 2010-11. The 2010-11 offence was the only offence where the main charge was keeping a breeding establishment for dogs without a licence.

24. The costs of prosecution through the courts vary depending on the type of case and court used. For the purposes of this analysis it is assumed that any additional prosecutions will take place in the Justice of the Peace court or in the Sheriff Court (under summary procedure).

25. The standard costs in Scotland of Sheriff Court (summary procedure) and Justice of the Peace Courts are as follows:²⁰

<https://consult.gov.scot/animal-welfare/pet-breeding-activities/> Accessed 30 April 2020.

¹⁸ Currently £1,000.

¹⁹ Figures provided by the Scottish Government to the Scottish Parliament Information Centre (SPICe).

²⁰ Scottish Government, Cost of the criminal justice system in Scotland dataset, available at <https://www.gov.scot/Topics/Statistics/Browse/Crime->

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Table 3: standard prosecution and court costs

	Sheriff Court (Summary procedure)	Justice of the Peace	Average cost
Prosecution costs (COPFS)	£421	£421	£421
Court Costs (SCTS)	£441	£225	£333
Total	£862	£646	£754

26. Given the low level of prosecutions so far under the 1973 Act, it is difficult to assess how many prosecutions are likely under the new threshold. It is expected that the Scottish Government will run an information campaign in order to alert breeders to the new threshold. It is also expected that the campaign would let breeders know that they should include a licence number in any advertisement. The puppy litter register that the Bill establishes will make it difficult for those requiring a licence to go unnoticed, as the registration system will encompass nearly all individuals who have bred an unlicensed litter of puppies and who wish to sell/transfer puppies. It can therefore be anticipated that the new requirements will encourage compliance and that there may be a low number of additional prosecutions for not having a breeding licence.

Costs on the Scottish Prison Service (SPS)

27. The current maximum penalty for keeping an unlicensed breeding establishment for dogs is imprisonment for a term not exceeding 3 months. Should an offender be sentenced to imprisonment, then automatic early release would dictate that not more than 1.5 months would be spent in prison. Based on the average cost per year per prisoner of £37,334²¹

Justice/Publications/costcrimjustscot/costcrimjustdataset (Table 2) (costs for the Scottish Legal Aid Board (SLAB) have been removed from this table as these do not fall directly on the Scottish Administration. Accessed 30 April 2020.

²¹ Scottish Government, Costs of the criminal justice system in Scotland dataset, available at <https://www2.gov.scot/Topics/Statistics/Browse/Crime->

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

(£3,111 per month), it can be calculated that for each person serving the maximum custodial sentence, the additional cost to the Scottish Prison Service would be £4,667.²²

28. However, the statutory presumption against prison sentences of less than 12 months means that it is likely that the equivalent community sentence, such as a community payback order, would be handed down, rather than a prison term of up to 3 months. The average cost of a community payback order is £1,894.²³

Margins of uncertainty

29. As noted above, if the Bill succeeds in its aim of encouraging more responsible breeding and ownership of dogs, it is possible that any breeders who should be licensed but are not currently, will obtain licences and comply with the terms and conditions of those licences. The number of investigations, prosecutions and sentences for failure to comply with the licensing legislation may therefore decrease overall, or at least as a proportion of the overall number of licences issued. The overall result may be no increase in costs for COPFS, SCTS or SPS. However, it is also possible (at least in the short term) that the number of investigations, prosecutions and sentences may increase as it becomes easier to identify those who are either required to apply for a licence, or to register their litters, thus making those who are operating without a licence or registration number obvious to enforcement authorities and to the general public.

Justice/Publications/costcrimjustscot/costcrimjustdataset Accessed 30 April 2020.

²² It is not possible to tell from current recorded crime statistics how many prosecutions are specifically for failure to have a breeding licence, which is why a cost per prisoner figure has been used.

²³ Note that this is based on funding allocation, rather than actual expenditure - Scottish Government, Costs of the criminal justice system in Scotland, available at

[https://www2.gov.scot/Topics/Statistics/Browse/Crime-](https://www2.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot)

[Justice/Publications/costcrimjustscot](https://www2.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot) and Scottish Government, Costs of the criminal justice system in Scotland dataset, available at

[http://www.gov.scot/Topics/Statistics/Browse/Crime-](http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot)

[Justice/Publications/costcrimjustscot/costcrimjustdataset](http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot) Accessed 30 April 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Costs on Local Authorities

30. As set out above, local authorities can expect an increase in the number of breeders applying for a licence to breed dogs. This may in turn increase the administrative burden on local authorities, as well as the requirement for initial inspections and/or annual inspections. However, it is anticipated that, as with the current licensing regime, any additional administration costs will be covered by the additional licence fees paid. Local authorities' licence application processes are annual, which allows them to vary the fee depending on the annual number of applications and the annual cost of administering and enforcing the licensing regime.

31. An increased number of licensed breeders may lead to an increase in reports or complaints about those breeders or their premises. But it is expected that, as with any increase in administration costs, either the cost of investigating and enforcing additional complaints will be offset by the additional licence fee income or will be absorbed within existing budgets.

32. The requirement to register unlicensed litters may enable local authorities to identify more easily any individual breeding three or more litters within a 12-month period, and thus requiring a licence. This may make enforcement of the licensing regime easier and therefore less costly.

Costs on other bodies, individuals and businesses

33. It is anticipated that the majority of the enforcement for complying with the licensing regime will continue to be dealt with by local authorities. Should Police Scotland become involved with any incident or investigation relating to a failure to obtain a licence, the length of time spent will vary depending on the circumstances. Police Scotland estimates that a constable's time costs £60 per hour.²⁴

34. The Bill's provisions will increase the number of individuals who are required to apply for a breeding licence, either because those individuals are now captured by the lower threshold of three litters in a year, or by the restriction in circumstances in which a breeder is exempt (from the need for a licence), so the exemption is available only when none of the dogs is

²⁴ Police Scotland, "Organising an event", available at <http://www.scotland.police.uk/contact-us/organising-an-event/> Accessed 30 April 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

either sold or given away. Local authorities will continue to set the licence fee so breeders can expect to pay between £79 and £463 depending on which local authority they reside in.

35. Individuals that are required to apply for a licence for the first time (by the Bill) may also incur costs to ensure that their premises comply with breeding licence conditions, which are determined by a vet inspection. Costs for adapting their premises will be dependent on the individual breeder, the number of bitches they own and the current state of the breeder's premises. The cost to the breeder of having their premises inspected by a vet will depend on the fees that individual vets charge the local authority.

36. There may be a cost to the buyers of puppies if individuals who require to apply for a licence for the first time pass on the cost of the licence fee by increasing the price of puppies. This may depend on what breed of puppies they sell and how competitive the market is for puppies of that breed.

37. Should there be an increase in the number of dogs seized due to a failure to hold a breeding licence when required, there may be a subsequent cost on either the re-homing centre or the enforcement agency. The cost on re-homing centres of keeping puppies prior to trial amounts to £15 per dog per day.²⁵ If the investigation that led to the seizure was carried out by a local authority, then the local authority would cover the cost of the seized puppies. However, if the investigation was led by authorised Scottish SPCA inspectors, then the Scottish SPCA would cover the cost of housing the puppies.²⁶

Part 2 – Scotland-wide puppy litter register

38. As set out in Table 2 above, the estimate of 1,667 people breeding two litters per year, and 2,498 breeding one litter, would suggest that there are an estimated 4,165 people who will be required to register their litters of puppies under Part 2 of the Bill. It is also therefore estimated that 5,832

²⁵ Information provided to the Non-Government Bills Unit by the Scottish SPCA.

²⁶ Information provided to the Non-Government Bills Unit by the Scottish SPCA.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

litters will require to be registered annually on the Scotland-wide litter register.²⁷

Costs on the Scottish Administration

39. The Bill places a requirement on Scottish Ministers to establish and maintain a register. The Bill stipulates that the register be in electronic form and that elements of it should be publicly searchable. Scottish Ministers are otherwise left a considerable degree of discretion to determine the technical design and operation of the register, provided it delivers the policy as set out in the Bill. The Bill will allow the Scottish Ministers to charge a fee for registering. This will provide Scottish Ministers with the option of passing on any costs for establishing and maintaining a register, to those individuals that are required to register. This would give the Scottish Ministers the option of making the register fully cost recoverable. The member envisages the Register being established online in such a way that breeders can create their own entries quickly and easily, and later update their entries in the same way. As a result, most register entries should have zero cost implications. The only costs for the Scottish Government will be the initial establishment of the register and routine maintenance and IT support costs.

40. A small proportion of breeders who lack internet access, confidence with an online portal, or for reasons related to disability, will need to have an alternative means of creating a register entry. For example, this may involve sending the required information by post to those responsible for operating the register, who would then enter it onto the register on the breeder's behalf. There would be a small administrative cost associated with this (primarily in staff time) so that the online portal is established in a way that ensures accessibility.

41. If the Scottish Ministers choose to charge a fee for each entry created, this would not therefore be just to cover the marginal cost of that entry (which would effectively be zero) but would represent a contribution to repaying the set up and covering the general maintenance costs of the register, including for entries that need to be added by Scottish Government officials.

²⁷ $(1,667 \times 2) + 2,498 = 5,832$.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Establishing the register

42. As mentioned above, the Scottish Ministers will have a range of options open to them in terms of how to set up the register. They may choose to use an already established online portal system and/or database, which can be amended to incorporate the registration of puppy litters, or to set up a new separate system. Alternatively, the Scottish Ministers may choose to delegate the establishment and operation of the register to a third party.

43. There are a number of registers established by the Scottish Government which are set up in a similar way to the puppy litter register required by the Bill. The Landlord Register²⁸, Letting Agent Register²⁹ and Property Factors Register³⁰ operate through the Scottish Government's online gov.scot portal. Scottish Ministers would have the option of establishing the puppy litter register through the same portal.

44. The above three registers differ in their levels of complexity and therefore represent a range of costs. Of the three registers, the Landlord Register is the most complex and has the largest scale, with the details of over 260,000 landlords and 300,000 properties. Each local authority has access to the register for property and landlords that are relevant in their area. The cost of delivering a complex system that includes a public facing portal and local authority portals has totalled approximately £5.2 million between its launch in 2016 through to the delivery of new functionality up to 31 March 2020. The cost is met jointly by the Scottish Government and Registers of Scotland. This figure does not include the costs of local authority and Scottish Government staff involved in the project, which as been absorbed by existing budgets. The aim is for landlord registration fees to cover the ongoing costs of the register going forward.³¹

²⁸ Scottish Landlord Register, available at <https://www.landlordregistrationscotland.gov.uk/> Accessed 30 April 2020.

²⁹ Scottish Letting Agent Register, available at <https://lettingagentregistration.gov.scot/> Accessed 30 April 2020.

³⁰ The Scottish Property Factor Register, available at <https://www.propertyfactorregister.gov.scot/PropertyFactorRegister/> Accessed 30 April 2020.

³¹ Costs and information provided by the Scottish Government to SPICe.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

45. The Scottish Letting Agent Register has 900 registered Letting Agents. The scheme is administered by the Scottish Government alone and cost approximately £1 million from initial development in 2016 to continuing development up to 31 March 2020. The day-to-day costs of running the service are around £150,000 for the same period (not including Scottish Government staff costs). The application fee was intended to recover the majority of costs for the establishment of the register but does not cover ongoing monitoring and compliance costs.³²

46. The Property Factor Register has approximately 400 entrants and the cost of establishing the register and website was approximately £80,000. The costs of Scottish Government staff who were involved in the development and running of the register, enforcement and other costs of administration are not included and the administration of the register is not cost-neutral.³³

47. The other comparable register for which estimated costs are available is the Tobacco Register, established under the Tobacco and Primary Medical Services (Scotland) Act 2010. The Tobacco Register operates at a Scotland-wide level, requiring licensed sellers of tobacco products in Scotland to be registered, with the enforcement of the licensing regime carried out by local authorities. It operates through an online registration system and provides for registration by post, if necessary. Members of the public can search for tobacco and nicotine vapour retailers using a number of different filters such as premises name, postcode and local authority area.³⁴

48. The Scottish Government's Tobacco Control Team has confirmed that the original Tobacco Register cost approximately £20,000 (subsequent improvements and enhancements were made to the register to take into

³² Costs and information provided by the Scottish Government to SPICe.

³³ Costs and information provided by the Scottish Government to SPICe.

³⁴ Register of Tobacco and Nicotine Vapour Product Retailers, available at <https://www.tobaccoregisterscotland.org/> Accessed 30 April 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

account user feedback and new legislative requirements). The total number of active premises listed on the register (as of 3 February 2020) is 10,574.³⁵

49. Due to the similarity between the functionality of the Tobacco Register with the member's policy intentions for the puppy register, it is estimated that the cost of establishing the puppy register will be comparable to the £20,000 cost of establishing the Tobacco Register. Adjusted for inflation,³⁶ this cost is £23,803 for the 2020/21 financial year.

50. It is expected that the Scottish Ministers will produce guidance on acquiring and owning a dog, and looking after puppies, for those acquiring a puppy and for those required to register a litter of puppies. It is expected that this guidance will be in electronic form (e.g. an email sent to the breeder at the point of registration). It is estimated that the cost of producing guidance will be minimal and met from existing Scottish Government budgets. Scottish Ministers will have the option to pass on the cost of producing guidance to individuals that require to be registered, as part of the fee for registering.

Maintaining the register

51. The ongoing cost of maintaining the register will fall on Scottish Ministers (or on the register operator, if Ministers arrange for someone else to be the operator). The Bill allows Ministers to set a fee for registering a litter, so as to provide that fee income offsets at least some of these operating costs.

52. The Tobacco Control Team has confirmed that "the annual costs average about £15,000".³⁷ However, unlike the Bill's provisions, it requires a register entry to be verified before being added to the register, in order to

³⁵ Information provided by the Scottish Government's Tobacco Control Team to SPICe.

³⁶ From the 2010/11 financial year- retailers could sign up to the register from 1 April 2011, when the Tobacco and Primary Medical Services (Scotland) Act came into force – The Scottish Government, "The New Laws on the Sale and Purchase of Tobacco, Retailer regulations", available at <https://www.tobaccoregisterscotland.org/media/1017/sg-1652-retailers-dm-brochure.pdf> Accessed 30 April 2020.

³⁷ Quote provided in an email from the Tobacco Control Team to SPICe.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

check whether the registrant has any relevant unspent convictions. The Scottish Government Tobacco Control Team has also confirmed that “following the introduction of the Register, we made enhancements suggested by our end users so over the years it probably cost an extra £20,000 approximately for improvements”.³⁸ The Register also had to be further developed to include nicotine vape retailers at a further cost of approximately £15,000. According to the Tobacco Control Team, “the Scottish Government meets the total costs of the Register.”³⁹

53. These figures are provided for comparison; however, it is the member’s policy for the register to be kept updated, as far as possible, by registrants, with a minimum amount of central oversight. It is therefore expected that, based on the Tobacco Register costs, the cost of maintaining the register of puppy litters would be a maximum of £15,000 per annum, depending on how Scottish Ministers choose to fulfil the requirement in the Bill to establish and maintain a register of litter of puppies, and whether they charge a fee for registration. Should Scottish Ministers opt to charge a fee for registration, then the fee income would be paid into the Scottish Consolidated Fund.

Costs on the Crown Office and Procurator Fiscal Service and Scottish Courts and Tribunals Service

54. Part 2 of the Bill creates six offences for: advertising, selling or transferring a puppy from an unregistered litter; knowingly providing false information during the registration process; failing to notify certain changes to registration information; failing to update the register when there are no puppies left to sell or give away, or knowingly providing false information in doing so; and failing to include the registration number in an advertisement. These offences carry a penalty, on summary conviction, of a fine not exceeding either level 2, level 3 or level 4 on the standard scale (currently £500, £1,000 and £2,500), depending on the offence. It is difficult to estimate the number of individuals that may fail to conform to the new requirements, as these requirements have not previously been in place.

³⁸ Quote provided in an email from the Tobacco Control Team to SPICe.

³⁹ Information and quote provided in an email from the Tobacco Control Team to SPICe.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

55. The Bill requires the Scottish Ministers to establish a Fixed Penalty Notice (FPN) regime for the majority of the offences created by Part 2 of the Bill, which will reduce the potential number of offenders being prosecuted (except when offenders fail to pay the Fixed Penalty Notice). It is anticipated that, in many cases, the offences will be dealt with under the FPN regime, with only a very small number prosecuted through the court, for example, flagrant or repeat offenders. Furthermore, those responsible for enforcement may also use their discretion in cases of obvious oversight, or where reasonable excuse was considered to be present. Income from the FPN regime could also help to offset any prosecution and court costs, as well as any costs that fall on the Scottish Administration for drafting the subordinate legislation (and associated guidance) required to introduce the regime. The specific amount of the fixed penalty will be left to the Scottish Ministers.

56. Set out in Table 3 below is the cost per prosecution, should the offender be prosecuted. The costs of prosecution through the courts vary depending on the type of case and court used. For the purposes of this analysis it is assumed that prosecutions for failing to register a litter of puppies, prior to advertising, selling or transferring a puppy from that litter, or providing false information on the register, will take place in Justice of the Peace Courts and Sheriff Courts (summary procedure).

Table 4: Standard prosecution costs in the sheriff court (summary procedure) and JP court⁴⁰

	Sheriff Court (Summary procedure)	Justice of the Peace Court	Average cost
Prosecution costs (COPFS)	£421	£421	£421

⁴⁰ Scottish Government, Costs of the criminal justice system in Scotland dataset, available at <https://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot/costcrimjustdataset> ((Table 2) Accessed 30 April 2020. Costs for the Scottish Legal Aid Board (SLAB) have been removed from this table as these do not fall directly on the Scottish Administration.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

	Sheriff Court (Summary procedure)	Justice of the Peace Court	Average cost
Court Costs (SCTS)	£441	£225	£333
Total	£862	£646	£754

57. If the Bill succeeds in its aim to encourage more responsible breeding and ownership of dogs, it is likely that more people will comply with the requirement to register a litter, and the number of investigations and prosecutions for failure to comply will be minimal.

58. In addition, as noted above, the policy intention is that for first-time offenders who fail, without a reasonable excuse, to comply with the requirement to register, a Fixed Penalty Notice would be used. This is likely to reduce the figures for the number of people being prosecuted.

Costs on Local Authorities

59. There may be increased demands on local authorities for enforcing the register. Scottish Ministers may make regulations to set out who is to enforce this part of the Bill. It is expected that this will be carried out largely by local authorities. Scottish Ministers may also make regulations to allow particular persons or bodies access to the register, or to authorise them to be given information derived from the register. To this end it is also expected that local authorities will have access to the data contained in the register. A policy aim of the register is also to provide local authorities with the ability to more easily monitor those that have reached the licensing threshold. It is expected that, as at present, individual local authorities will decide the amount of resource they can apply to enforcing the licensing regime and register entries.

60. The Scottish Ministers will also have the option of designing the register in such a way as to aid enforcement for local authorities, such as notifying the relevant local authority when a new entry is created for their local authority area, or when a person registers three litters within a 12-month period (and therefore that they require a breeding licence). In

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

addition, the requirement for the registration number to be present on the advertisement should aid the monitoring of puppy sales and compliance with the requirement to register, as each advertisement will be tied to a name and an address through the register.

61. Scottish Ministers will be required, under the Bill's provisions, to establish a Fixed Penalty Notice (FPN) regime, with the aim being to enable local authorities more easily to enforce the requirement to register the litter. Depending on how the Scottish Ministers choose to set up the regime, the cost of issuing FPNs, and subsequent costs if people do not pay the fixed penalty, may fall on local authorities. However, the Scottish Ministers would have the option of allowing local authorities to keep some of the income from the FPNs in order to cover administration costs associated with issuing them. Any net income from penalties would be paid into the Scottish Consolidated Fund.

Costs on other bodies, individuals and businesses

62. It is anticipated that the majority of the enforcement for complying with the register will be dealt with by local authorities. It is anticipated that incidents relating to a failure to register, that require a police presence or investigation, will be minimal. Should Police Scotland become involved with an incident, the length of time spent dealing with an incident relating to a failure to register a litter of puppies will vary depending on the circumstances. Police Scotland estimates that a constable's time costs £60 per hour.⁴¹

63. For individuals, an administration fee for entering a litter into the register may be set by the Scottish Government to cover the costs of the register. This fee will be dependent on how the Scottish Ministers choose to establish and maintain the register, and whether they choose to charge a fee at all. If a fee is charged, Ministers may choose to spread the cost of the establishing the register over several years, as the bulk of the cost will be in establishing the register rather than maintaining it. In addition, Scottish Ministers have the option to set the fee at zero for those that they believe should be exempt (e.g. animal rehoming centres).

⁴¹ Police Scotland, "Organising an event", available at <http://www.scotland.police.uk/contact-us/organising-an-event/> Accessed 30 April 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

64. Evidence heard by the Scottish Parliament's Environment, Climate Change and Land Reform Committee noted that increased public awareness of the illegal puppy trade, following Scottish Government publicity campaigns, led to an increase in calls to the Scottish SPCA.⁴² It is therefore expected that, following the introduction of the register and its promotion by the Scottish Government, the Scottish SPCA and other animal welfare organisations may also expect to see an increase in calls from the public reporting suspicious breeding activity, puppy welfare concerns or breeders not complying with the requirement to register.

65. The establishment and maintenance of the register will have no direct costs on businesses.

Part 3 – Code of practice encouraging responsible dog ownership

Costs on the Scottish Administration

66. The Bill will require Scottish Ministers to make a code of practice (to give effect to the Schedule to the Bill) to set out the process that should be followed by anyone considering acquiring a dog or puppy as a pet, and by anyone selling or giving away a puppy or dog to another person to be kept as a pet. The cost of developing the code will fall on the Scottish Administration however, as the main elements of the code are set out in the schedule to the Bill, the cost is expected to be minimal and absorbed within existing budgets.

67. The Bill places a duty on Scottish Ministers to publish and promote the code. As noted above, it is the member's policy intention that the Scottish Government will provide material to anyone registering a litter. This will include a copy of the code, information on looking after new-born puppies and on their responsibilities under the terms of this Bill. It is also expected that the Scottish Ministers will provide acquirers with information regarding the code and how to responsibly acquire and own a dog.

⁴² Official Report, Environment, Climate Change and Land Reform Committee, 35th Meeting 2019 (Session 5), 17 December 2019, Column 8. Available at: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12427&mode=pdf> Accessed 30 April 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

However, the extent to which the code is promoted is left up to Scottish Ministers.

Costs on Local Authorities

68. Under the code, in the case of a sale or transfer by the first owner of a puppy or younger dog (up to the age of 12 months), prospective acquirers should check that the person they are getting such a dog from is either a licensed breeder or has registered the litter. If individuals report unregistered litters to local authorities, administration and investigation costs on local authorities (who, it is anticipated, will remain the main enforcement agencies) may increase. These costs may be offset by the Fixed Penalty Notice regime.

Costs on other bodies, individuals and businesses

69. The Bill sets out that public access to the register of puppy litters must be free. Checking the register will not incur any costs for an individual or, e.g. a third sector organisation who wishes to check the register in order to match an advertisement with a register entry.

70. For the same reasons as set out in paragraph 63, an increase in responsible dog ownership may initially result in more work for the Scottish SPCA, as members of the public become aware of issues that indicate poor welfare conditions for puppies and their mothers, or become aware that an advertisement for puppies does not include a registration or breeding licence number.

Savings for other bodies, individuals and businesses

71. It is expected that the Bill's provisions will lead to savings for individuals in the form of reduced veterinary bills if the overall health of the puppy population improves and if they are less likely to buy a puppy that has been bred under poor welfare conditions.⁴³

⁴³ Muldoon, J., Williams, J. & Scottish SSPCA, "The impact of the dog trade on canine welfare, The current situation and recommendations for policy and practice." available at https://www.ed.ac.uk/files/atoms/files/illegal_dog_trade_briefing_paper.pdf Accessed 1 May 2020.

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

72. It is expected that the Bill's provision will, in the long run, provide savings for rehoming and rescue centres if more responsible ownership leads to fewer puppies finding their way to these centres.

73. It is expected that the Bill's provision will, in the long run, provide savings for local authorities, the police and other organisations if the Bill succeeds in its aim of reducing illegal and irresponsible breeding.

Other costs

Costs on the Scottish Administration

74. The Bill places a requirement on Scottish Ministers to take reasonable steps to ensure public awareness and understanding of the provisions of the Bill. It is expected that the Scottish Government will undertake an awareness campaign to alert the public to the new requirements sets out in the Bill, and to the code of practice. This will include some people who will now require to apply for a licence and ensure that they comply with licensing conditions. It will also inform anyone with one or two litters that they require to register their litters in order to advertise, sell or give away puppies; and anyone acquiring or selling/transferring a dog or a puppy that they should, as far as possible, comply with the code of practice.

75. In 2018 and 2019 the Scottish Government ran an extensive campaign on the issue of responsible dog ownership. For the 2018 'Buy a Puppy Safely' campaign, the Scottish Government spent £223,678 (excluding VAT) on the marketing budget. It is therefore estimated that a similar campaign to promote public awareness and understanding about the Bill would cost approximately £200,000. However, it would also be possible for the Scottish Ministers to fulfil their obligations under the Bill with a smaller campaign. Furthermore, the Scottish Ministers could integrate the promotion of this Bill into future Scottish Government campaigns on responsible dog ownership, in which case there would be little, if any, additional costs as a result of this Bill. Similarly, the member is aware that the Scottish Government is planning to update the licensing regime for the breeding of dogs, cats and rabbits, through regulations. Depending on the timing of the regulations, and the passing of this Bill, it may be possible for the Scottish Government to have a single campaign to raise awareness of both the new requirements in the Bill, and the changes

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

made by separate Scottish Government legislation. In that case the additional costs as a result of this Bill may be minimal.

Summary of costs and savings

Changes to licensing regime

76. Given the low level of prosecutions so far under the 1973 Act, it is difficult to estimate the number of additional investigations, prosecutions and convictions that the changes to the licensing regime threshold will bring. There may be an increase in costs for Police Scotland, the Crown Office and Procurator Fiscal Service and the Scottish Prison Service, should breeders that fall under the new licensing threshold either fail to have a breeding licence or fail to comply with licensing conditions (see paragraphs 22-27 and paragraph 33). Local authorities may incur additional enforcement costs, if these are not covered by the additional licence fees (see paragraphs 30-32). If investigations, and the seizure of dogs, increase, there may also be a subsequent cost to local authorities for keeping puppies at a re-homing centre prior to trial, if the investigation is led by the local authority (see paragraph 37).

77. Individuals who need to obtain a licence for the first time will need to pay the relevant local authority's licence fee, vet inspection fee, and any costs associated with ensuring that their premises comply with breeding licence conditions (see paragraphs 34-35). If investigations and the number of dogs seized increase, there may be subsequent costs for Scottish SPCA re-homing centres if the investigation is led by the Scottish SPCA (see paragraph 37).

Scotland-wide puppy litter register

78. There is an estimated cost of £23,803 to the Scottish Ministers to establish the register and £15,000 per annum to maintain the register, with the option of recovering at least part of the cost through a registration fee (see paragraphs 42 to 53). There may also be a cost to the Scottish Ministers of producing guidance; this is expected to be minimal and met from existing budgets or included in the registration fee. There will be a cost to establish a Fixed Penalty Notice (FPN) regime and any prosecution of offences related to the national litter register (see paragraphs 55-58).

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

79. It is expected that individual local authorities will decide the amount of resource they can apply to enforcing compliance with registering, and with registration requirements. Depending on how the Scottish Ministers establish the FPN regime, local authorities may be allowed to keep some of the income from fixed penalties in order to cover the administration costs of issuing FPNs.

80. It is anticipated that any incidents relating to a failure to register, that require a police presence, will be minimal. Individuals registering a litter of puppies may be required to pay a registration fee set by the Scottish Ministers. The Scottish SPCA and other animal welfare organisations may see an increase in reports of suspicious breeding activity or puppy welfare concerns, resulting in increased costs for dealing with and responding to these reports (see paragraphs 62-65).

Code of practice encouraging responsible dog ownership

81. The cost of developing the code of practice is expected to be minimal (as the main elements are set out in the schedule to the Bill) and to fall within existing Scottish Government budgets. There may be increased administration costs for local authorities if there is an increase in members of the public reporting irresponsible breeding or dog ownership to local authorities. Any increase in reports to animal welfare organisations may result in a subsequent increase in costs for those organisations to process and handle these reports (see paragraphs 62-66).

Other costs

82. The Bill places a duty on Scottish Ministers to take reasonable steps to ensure public awareness and understanding of the provisions made by and under the Bill. Should the Scottish Ministers choose to promote public awareness and understanding using a campaign similar to recent animal welfare campaigns, this is estimated to cost £200,000. However, the Scottish Ministers could also choose to fulfil the duty by means of a smaller campaign. Furthermore, the requirement to make the public aware of the provisions in the Bill may have a minimal cost if the Scottish Ministers combined that with a campaign to raise awareness of the licensing changes that the Scottish Government has already announced and plans to bring in through regulations (see paragraph 75).

This document relates to the Welfare of Dogs (Scotland) Bill (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Savings

83. If the Bill's aims are achieved, it is expected that the Bill will lead to savings in the long run as the overall health of the puppy population improves. For individuals there is the possibility of reduced veterinary bills and, for rehoming and rescue centres, more responsible dog ownership may lead to fewer puppies finding their way to these centres. For local authorities, the police and other organisations, if the Bill succeeds in its aim of reducing illegal and irresponsible breeding, there may be fewer cases to investigate and prosecute (see paragraphs 29, 57-58 and 71-73).

This document relates to the Welfare of Dogs Bill (Scotland) (SP Bill 74) as introduced in the Scottish Parliament on 1 June 2020

Welfare of Dogs (Scotland) Bill

Financial Memorandum

□ Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -
www.parliament.scot

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
www.parliament.scot/documents