

Welfare of Dogs (Scotland) Bill

[AS INTRODUCED]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 32-EN), a Financial Memorandum (SP Bill 32-FM), a Policy
Memorandum (SP Bill 32-PM), a Delegated Powers Memorandum (SP Bill 32-DPM) and
statements on legislative competence (SP Bill 32-LC).**

Welfare of Dogs (Scotland) Bill

[AS INTRODUCED]

5 An Act of the Scottish Parliament to make provision as to a code of practice in relation to the acquisition of dogs as pets; about the registration of litters of puppies born other than as part of activity licensed or registered under section 27 of the Animal Health and Welfare (Scotland) Act 2006; and to ensure public awareness and understanding of the code of practice and the circumstances in which there needs to be a licence or registration in place before a dog is supplied.

PART 1

PROMOTION OF GOOD PRACTICE

1 Ministers to make code of practice

- 10 (1) The Scottish Ministers must make a code setting out good practice for people to follow in relation to—
- (a) acquiring a dog to keep as a pet, or
 - (b) selling or giving away a dog to another person whom it appears would keep the dog as a pet.
- 15 (2) The code of practice must include provision giving effect to what is set out in sections 2 to 4 and any other matter that the Scottish Ministers consider appropriate.
- (3) Before making the code of practice, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) The code of practice is to come into effect on a date, specified in it, that is no later than 6 months after Royal Assent.
- 20 (5) The Scottish Ministers must publish the code of practice.
- (6) The references in sections 5 to 7 to “the code of practice” are to the code of practice made under this section.

2 Content of code: in relation to sale or transfer of dog of any age

- (1) This section applies in relation to the sale or transfer of a dog of any age.

- (2) The prospective acquirer is to ask themselves the following questions before acquiring the dog—
- (a) is the breed of dog suitable for you and your family (recognising that some breeds require more space, exercise and care than others)?
 - 5 (b) is the environment in which the dog would be kept suitable to accommodate it? (For example: is there enough space? Is there a quiet area for the dog to rest in?),
 - (c) would the dog fit in with the composition of the household in which it would be kept? (For example: would the household contain other animals or small children? If so, how are they likely to interact with the dog?),
 - 10 (d) would there be suitable arrangements for walking, exercising and playing with the dog regularly? (For example: would the household in which the dog would be kept have enough time and energy to walk, exercise and play with the dog regularly? Is the dog likely to be left unsupervised for large parts of the day due to other commitments of members of the household?),
 - 15 (e) are the costs associated with keeping the dog (for example, food, bedding, veterinary treatment, insurance) affordable on an on-going basis?
 - (f) are you committed to caring for the dog throughout its life (which may be many years)? (For example: are you prepared to and will you be able to groom the dog as may be required? Are you prepared to and will you be able to take the dog to
 - 20 veterinary appointments as may be required?).
- (3) The prospective acquirer (or a person acting on that person's behalf) and the prospective supplier are (unless this is not practicable) to meet in person before reaching any agreement to sell or transfer the dog from one to the other.

3 Content of code: in relation to sale or transfer of young dog by first owner

- 25 (1) This section applies in relation to the sale or transfer of a dog if—
- (a) the dog is aged less than 12 months, and
 - (b) the prospective supplier is the first owner of the litter of puppies from which the dog comes.
- (2) The dog is not to be sold or transferred if it is aged less than 8 weeks.
- 30 (3) Before acquiring the dog, the prospective acquirer is (unless this is not practicable) to see the dog with the bitch which gave birth to it.
- (4) Before acquiring the dog, the prospective acquirer is to—
- (a) become familiar with circumstances in which the activity of supplying a dog aged less than 12 months would require—
 - 35 (i) a licence or registration under regulations made under section 27(1) or (2) of the Animal Health and Welfare (Scotland) Act 2006, or
 - (ii) registration under regulations made under Part 2 of this Act, and
 - (b) if it appears that any such circumstances may be applicable in relation to the supply of the dog, take all reasonable steps to establish that the licence or
 - 40 registration (as the case may be) is in place.

4 Content of code: certificate

- (1) This section applies in relation to the sale or transfer of a dog of any age.
- (2) Before acquiring the dog, the prospective acquirer is to complete a certificate relating to the matters mentioned in subsection (4) which the prospective acquirer and the prospective supplier are then to sign.
- (3) The code of practice must prescribe the form of the certificate.
- (4) The certificate must—
- (a) require the prospective acquirer to confirm that they have asked themselves the questions in section 2(2) and have answered them in the affirmative,
 - (b) if section 3 applies, require the prospective acquirer to—
 - (i) confirm that they have checked with the prospective supplier and believe the dog is at least 8 weeks of age, and
 - (ii) confirm that they have complied with section 3(3) and (4),
 - (c) require the prospective acquirer to confirm that they understand the requirements of subsection (5),
 - (d) include the name and address of the prospective acquirer and the prospective supplier, and
 - (e) include any other matter the Scottish Ministers consider appropriate.
- (5) The certificate is to be—
- (a) kept during the period of ownership of the dog, and
 - (b) shown to a police officer or inspector in response to any reasonable request to see it.

5 Revision of code

- (1) The Scottish Ministers may revise the code of practice as it has effect for the time being.
- (2) But the Scottish Ministers may not revise the code in a way that means that it does not include provision giving effect to sections 2 to 4.
- (3) Before revising the code of practice, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) A revised code of practice is to come into effect on such date as is specified in it.
- (5) Whenever the code of practice is revised, the Scottish Ministers must re-publish the code of practice as revised.
- (6) Subsection (5) does not apply if the Scottish Ministers consider that none of the revisions materially alters the effect of the code of practice.

6 Effect of code

- (1) A person's failure to comply with any provision of the code of practice does not of itself make the person liable to proceedings of any sort.

- (2) In any proceedings for a relevant offence—
- (a) failure to comply with a relevant provision of the code of practice may be relied on as tending to establish liability, and
 - (b) compliance with a relevant provision of the code of practice may be relied on as tending to negative liability.
- (3) A “relevant offence” is an offence under—
- (a) Part 2 of the Animal Health and Welfare (Scotland) Act 2006, or
 - (b) regulations made under section 26 or 27 of that Act or Part 2 of this Act.
- (4) The references in this section to the code of practice are to it as it has effect at the time of the failure to comply, or the compliance, concerned.

7 Public awareness and understanding of code

The Scottish Ministers must take reasonable steps to ensure public awareness and understanding of the code of practice.

PART 2

REGULATION

Registration of litters

8 Power to require registration

- (1) The Scottish Ministers may by regulations prohibit the first owner of a litter of puppies from—
- (a) selling or giving away, or advertising, a member of the litter aged less than 12 months, or
 - (b) permitting another person to sell or give away, or advertise, on the first owner’s behalf, a member of the litter aged less than 12 months,
- if the litter is not at the time the subject of registration.
- (2) Regulations under subsection (1)—
- (a) must except from the prohibition—
 - (i) anything done that is, or is part of, an activity which requires a licence or registration under regulations made under section 27(1) or (2) of the Animal Health and Welfare (Scotland) Act 2006, and
 - (ii) a first owner of a litter of puppies who is not at the time resident in Scotland, and
 - (b) may provide for other exceptions from the prohibition.
- (3) The Scottish Ministers may by regulations make provision about registration for the purposes of subsection (1).
- (4) That provision may in particular include—
- (a) provision for or in connection with the establishment and operation of a register,

- (b) provision about procedures for obtaining registration, including information that must be provided in order for registration to occur,
- (c) provision about information that must be provided to the first owner of a litter of puppies following registration,
- 5 (d) provision requiring the first owner of a litter of puppies to give notice of—
 - (i) changes to registration information, or
 - (ii) events occurring after registration which are relevant to it,
- (e) provision requiring or permitting registration information to be amended or deleted in particular circumstances,
- 10 (f) provision requiring or permitting registration to be suspended, and for suspended registration to resume, in particular circumstances,
- (g) provision for or in connection with public or other access to registration information,
- 15 (h) provision for fees or other charges in connection with the exercise of functions under the regulations.

(5) The provision referred to in subsection (4)(a) includes provision conferring on the Scottish Ministers (or another person) the power to arrange for the register to be established and operated by another person on their behalf.

20 (6) If regulations make that sort of provision, the Scottish Ministers (or other person) must publish information about any such arrangements that they make.

(7) Subsection (6) does not apply so far as the arrangements concern payments to be made by the Scottish Ministers (or other person) to the person who is to establish and operate the register.

9 Regulations: supplementary

- 25 (1) The powers to make regulations conferred by this Part include power to make—
- (a) incidental, supplementary, consequential, transitional, transitory or saving provision, and
 - (b) different provision for different purposes.
- (2) Before making regulations under this Part, the Scottish Ministers must consult such
- 30 persons as they consider appropriate.
- (3) Regulations under this Part are subject to the affirmative procedure.

10 Compliance

(1) The Scottish Ministers may by regulations make provision for or in connection with securing compliance with regulations made under section 8.

- 35 (2) That provision may in particular include—
- (a) provision imposing prohibitions or requirements on the first owner of a litter of puppies,
 - (b) provision for the enforcement other than by way of proceedings for an offence of any provision of the regulations,

- (c) provision that a breach of a provision of the regulations is an offence,
- (d) provision for or in connection with post-conviction orders (whether by reference to sections 39 to 43 of the Animal Health and Welfare (Scotland) Act 2006 or otherwise) in relation to an offence under the regulations,
- 5 (e) provision conferring on persons of a specified description powers of entry, search, inspection and seizure in connection with breaches (and suspected breaches) of the regulations,
- (f) provision (whether or not subject to specified conditions) for exemptions from, or qualification to, an offence under the regulations.
- 10 (3) The Scottish Ministers may by regulations make provision that it is an offence to—
- (a) breach a prohibition or requirement imposed by subsection (2)(a),
- (b) obstruct a person in exercise of a power conferred by virtue of subsection (2)(e).
- (4) The powers to create offences conferred by this section are limited to creating offences that—
- 15 (a) are punishable on summary conviction only, and
- (b) have a maximum penalty of imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both).

Awareness and understanding of relevant regulatory regimes

11 Public awareness and understanding of relevant regulatory regimes

- 20 The Scottish Ministers must take reasonable steps to ensure public awareness and understanding of circumstances in which the activity of supplying a dog aged less than 12 months requires—
- (a) a licence or registration under regulations made under section 27(1) or (2) of the Animal Health and Welfare (Scotland) Act 2006, or
- 25 (b) registration under regulations made under section 8.

PART 3

GENERAL

12 Interpretation

- (1) In this Act—
- 30 “advertise”, in relation to a member of a litter of puppies, means publish, distribute or otherwise make available to—
- (a) the public at large,
- (b) any section of the public, or
- (c) individually selected members of the public,
- 35 a communication indicating that the member is for sale or available to be given away (and “advertising” is to be construed accordingly),
- “first owner”, in relation to a litter of puppies, means the person who owns the litter at the time of its birth,

“inspector” means a person who at the time is acting under an appointment as an inspector under Part 2 of the Animal Health and Welfare (Scotland) Act 2006,

“police officer” means a constable within the meaning of section 99(1) of the Police and Fire Reform (Scotland) Act 2012,

5 “publish” means publish in any form or by any means,

“selling” includes exchanging and bartering (and “sale” and “sell” are to be construed accordingly).

- (2) In the definition of “advertise” in subsection (1), “communication” does not include unrecorded speech.

10 **13 Commencement**

This Act comes into force on the day after Royal Assent.

14 Short title

The short title of this Act is the Welfare of Dogs (Scotland) Act 2024.

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