

Advice to TBC Members: Changes to the Animal Welfare Act

The committee wants to make you aware of new Animal Welfare & Licensing legislation that comes into effect from 1st October 2018.

Background

In April this year the Government passed new legislation called “The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018”. These changes amend the previous Animal Welfare Act (2006) and introduce an updated licensing system in England that comes into effect from 1st October 2018.

This covers five activities involving animals:

- Selling animals as pets
- Providing for or arranging for the provision of boarding for cats or dogs
- Hiring out horses
- Dog breeding
- Keeping or training animals for exhibition

The new legislation was introduced to consolidate a variety of previous Acts:

- The Pet Animals Act 1951
- The Animal Boarding Establishments Act 1963
- The Riding Establishments Act 1964
- The Breeding of Dogs Act 1973
- The Performing Animals (Regulation) Act 1925

These changes modernise the legislation and ensure that where activities must be licensed by Local Authorities this can be more effective and uphold the most modern animal welfare standards. The changes strengthen the regulations related to the breeding of puppies, where anyone breeding more than three litters per year will require to be licensed, and explicitly highlight the need for online businesses to be licensed, which has been ambiguous before.

The updated legislation removes licensing exemptions that were present in the Pet Animals Act 1951. The exemptions were for those in the business of selling either pedigree animals that have been bred by them or the offspring of an animal that has been kept by them as a pet, for instance, the offspring of their non-pedigree cat.

The new legislation introduces a “business test” which Local Authorities will use to determine if breeding activity is being carried out commercially. The main part of this test is: *whether the operator makes any sale by, or otherwise carries on, the activity with a view to making a profit.*

The full detail of the new legislation is available online and there is a list of references at the end of this article that provide links to the relevant documents.

What does this mean for TBC Members?

Whilst as hobby breeders we breed for pleasure and interest, without intending to make a profit, TBC Members do need to consider whether they need to be licensed under the new legislation.

The key factor in determining who needs to be licensed is whether the person is breeding with the intention of making a profit. This will be the main factor in establishing that a breeder is operating commercially i.e. as a business. There may other reasons that you should be licensed beyond breeding, for example if you run a boarding cattery.

It is likely that most of our members registering with GCCF will be out of scope and will not require a licence. However, it is the responsibility of each breeder to check their own situation and act accordingly. If you are breeding very regularly and in sufficient numbers to make a profit, you are likely to be considered a Commercial Pet Vendor, in which case you will need to apply for a license.

Any breeder who believes the licensing will apply to their circumstances should contact their local authority with a view to apply for a license from October this year. It's your responsibility to declare yourself rather than wait for the Local Authority to ask you to apply for a license.

Unless other conditions apply beyond the sale of kittens, any TBC members who require a license would be covered by Schedule 2 (General Conditions) and Schedule 3 (Selling Animals as Pets).

How do I know if I'm making a profit?

The number of kittens (or adult cats) you sell each year will be important in determining if you have made a profit. For TBC members who only breed one or two litters each year it unlikely that you would make a profit.

$$\textit{Profit} = \textit{Income From Selling Kittens} - \textit{Costs Incurred to Breed Kittens for Sale}$$

In the case of a single litter of 6 Kittens sold for £500 each, income would be £3000. If you insured the kittens with Agria and received £60 in incentive payments from their breeder scheme, the total profit would be £3060.

Your costs would have included items such as stud fees, vaccinations, worming, GCCF registrations, food for the kittens, kitten packs, food for the queen, litter, any other vet fees, the cost of any breeding insurance for the queen, genetic tests, and so on. It's likely that your costs would exceed your income, especially if you also then consider the upkeep of your breeding queen on a yearly basis, including food, vet fees, litter, insurance and other costs.

For more than one litter, and especially if you have your own stud cat, it's possible that your income could be greater than your costs (2 litters of 6 kittens at £500 would be £6000 income). As the number of kittens sold increases, it will be harder to demonstrate that you're not making a clear profit without having some records in place to help.

What records should I keep?

The Committee's recommendation is that you keep simple financial records which will help you to establish whether you are making a profit from breeding. Wherever possible you should obtain and keep receipts that cover all your expenses and incomes.

We have prepared a checklist of expenses that you could track to demonstrate the amount of money you spend on your hobby – this is available to download from the TBC website.

We recommend you start by considering the yearly costs that are specific to your breeding queens, stud cats, and each litter of kittens sold, before then thinking about the wider costs related to your hobby.

What is the TBCs position on the new legislation?

The TBC supports the animal welfare objectives of the new legislation.

Will the Local Authority contact me about this?

We don't know, but it's probably a good idea to have a plan for how you'd deal with it if they do. As the legislation is new and is mainly intended to cover businesses, we feel it is unlikely that Local Authorities will start contacting hobby breeders with a view to assessing whether they should be licensed. The committee will monitor what happens after October and update you if we have any news.

In theory there might be circumstances that cause the Local Authority to consider whether you should be licensed – for example if you have a website that looks very commercial, submit a planning application for significant outbuildings (e.g. a cattery), or be subject to a complaint about your cats (e.g. about a noisy stud kept in outside accommodation).

If you meet the criteria for being licensed, you should contact the Local Authority rather than wait to be asked to apply for a license after the fact.

What about HMRC (the Tax Man)?

HMRC are known to investigate animal breeders who they suspect are making a profit and don't declare it for tax purposes. If you have already kept adequate records to demonstrate that your breeding expenses are greater than your income, then you would be in a strong position.

Whilst the new licensing legislation and HMRC are not directly related, HMRC can obtain data that supports its investigations from various sources, which could include Local Authorities.

If after having considered all your expenses you are making a clear profit and require a Local Authority License, it is likely that HMRC would expect this profit to be declared to them.

How can I help?

If you have any news or information related to this topic, or any personal experience that could be helpful to others, please let us know. The Committee will be looking out for news about the changes once they come into effect in October.

Where can I find more information?

As more information becomes available we will let you know via the Club newsletter and website.

1. Tonkinese Breed Club Website

The TBC Committee has compiled a list of expenses that could be recorded to demonstrate the costs incurred by breeders of pedigree cats. The list can be downloaded from the Club website.

2. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

This is the full online version of the new legislation:

<https://www.legislation.gov.uk/ukxi/2018/486/made>

3. Explanatory Memorandum to the Regulations 2018

These notes give more background and information to the changes:

<https://www.legislation.gov.uk/ukxi/2018/486/memorandum/contents>