SCOTTISH STATUTORY INSTRUMENTS

2003 No. 174

ZOOS

The Zoo Licensing Act 1981 Amendment (Scotland) Regulations 2003

Made - - - -	*11th March 2003*
Laid before the Scottish Parliament - - - -	*11th March 2003*
Coming into force - -	*1st April 2003*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Zoo Licensing Act 1981 Amendment (Scotland) Regulations 2003 and shall come into force on 1st April 2003.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations "the Act" means the Zoo Licensing Act 1981(**2**).

Amendment of the Zoo Licensing Act 1981

3. The Act shall be amended in accordance with regulations 4 to 26.

4. In section 1 (licensing of zoos by local authorities)–

(a) in subsection (2) omit the words from "; and this Act" to the end of the subsection; and

(b) after subsection (2) insert–

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) 1981 c. 37. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

"(2A) This Act applies to any zoo to which members of the public have access, with or without charge for admission, on seven days or more in any period of 12 consecutive months.

(2B) This Act also applies to any zoo to which members of the public do not have such access if a licence is in force in respect of it or as otherwise provided (in particular, in section 13 and 16C to 16G).

(2C) In this Act–

(a) a section of a zoo means–

(i) a particular part of the zoo premises;

(ii) animals of a particular description in the zoo; or

(iii) animals of a particular description which are kept in a particular part of the zoo premises; and

(b) references to the closure of a section of a zoo to the public mean–

(i) the closure to the public of a particular part of the zoo premises;

(ii) ceasing to exhibit animals of a particular description to the public; or

(iii) ceasing to exhibit animals of a particular description to the public in a particular part of the zoo premises.".

5. After section 1 (licensing of zoos by local authorities) insert–

"**Conservation measures for zoos**

1A. The following are conservation measures to be implemented in zoos in accordance with this Act:–

(a) participating in at least one of the following:–

(i) research from which conservation benefits accrue to species of wild animals;

(ii) training in relevant conservation skills;

(iii) the exchange of information relating to the conservation of species of wild animals;

(iv) where appropriate, breeding of wild animals in captivity; and

(v) where appropriate, the repopulation of an area with, or the reintroduction into the wild of, wild animals;

(b) promoting public education and awareness in relation to the conservation of biodiversity, in particular by providing information about the species of wild animals kept in the zoo and their natural habitats;

(c) accommodating their animals under conditions which aim to satisfy the biological and conservation requirements of the species to which they belong, including–

(i) providing each animal with an environment well-adapted to meet the physical, psychological and social needs of the species to which it belongs; and

(ii) providing a high standard of animal husbandry with a developed programme of preventative and curative veterinary care and nutrition;

(d) preventing the escape of animals and putting in place measures to be taken in the event of any escape or unauthorised release of animals;

(e) preventing the intrusion of pests and vermin into the zoo premises; and

(f) keeping up to date records of the zoo's collection, including records of–

(i) the numbers of different animals;

(ii) acquisitions, births, deaths, disposals and escapes of animals;

(iii) the causes of any such deaths; and

(iv) the health of the animals.".

6. In section 2 (application for licence) after subsection (2) insert–

"(2A) Any notice given to the local authority under subsection (1) must also specify how the conservation measures referred to in section 1A are being or will be implemented at the zoo.".

7. In section 4 (grant or refusal of licence)–

(a) in subsection (1) omit paragraph (b) and ", or" immediately preceding it;

(b) after subsection (1) insert–

"(1A) Before granting or refusing to grant a licence for a zoo, the local authority shall also–

(a) consult the applicant about the conditions they propose would be attached to the licence, if one were granted, under section 5(2A) and (if applicable) section 5(3); and

(b) make arrangements for an inspection to be carried out in accordance with section 9A (subject to subsection (2) of that section).";

(c) after subsection (2) insert–

"(2A) The local authority shall also refuse to grant a licence for a zoo if they are not satisfied that the conservation measures referred to in section 1A will be implemented in a satisfactory manner at the zoo."; and

(d) in subsection (3) after "if" insert "subsection (2A) does not apply but".

8. In section 5 (periods and conditions of licence)–

(a) after subsection (2) insert–

"(2A) A licence under this Act shall be granted subject to conditions requiring the conservation measures referred to in section 1A to be implemented at the zoo.";

(b) in subsection (3)–

(i) after "such" insert "other"; and

(ii) omit paragraphs (a) and (b);

(c) in subsection (4) omit "(if any)"; and

(d) for subsection (5) substitute–

"(5) The Scottish Ministers may, after consulting the authority, direct the authority to attach one or more conditions to a licence, and the authority shall give effect to such a direction.

(5A) But the Scottish Ministers may not direct the authority to attach a condition which is inconsistent with the implementation at the zoo of the conservation measures referred to in section 1A.".

9. In section 6 (renewal of licence)–

(a) after subsection (1) insert–

"(1A) Before extending the period of an existing licence under subsection (1)(a) the authority shall–

(a) make arrangements for an inspection to be carried out under section 9A (subject to subsection (2) of that section); and

(b) consider the report made to them pursuant to that inspection."; and

(b) in subsection (2) omit the words from "and, if" to the end of the subsection.

10. In section 7(1) (transfer, transmission and surrender of licence) for the words from "which application" to the end of the subsection substitute "specified by the authority and notified by them to the transferor and transferee".

11. In section 8 (the Scottish Ministers' list)–

(a) in subsection (2) at the end insert "and shall be competent to advise about the implementation in zoos of the conservation measures referred to in section 1A"; and

(b) in subsection (3) after "welfare," insert "to advise about the implementation in zoos of the conservation measures referred to in section 1A".

12. Before section 10 (periodical inspections) insert–

"**Procedures relating to inspections before the grant, refusal, renewal or significant alteration of licences**

9A.—(1) This section applies where an inspection is to be carried out as mentioned in sections 4(1A)(b), 6(1A)(a) and 16(2B)(b) and (3A)(b).

(2) Where an inspection under section 10 falls to be carried out within the period of 12 months beginning with the date on which a local authority becomes required to make arrangements for an inspection to be carried out as mentioned in subsection (1)–

(a) the authority need not arrange for an inspection to be carried out in accordance with this section; and

(b) if they do not, subsections (10) to (13) of this section apply in relation to the inspection under section 10 as they would have applied in relation to an inspection in accordance with this section.

(3) Where–

(a) an application has been made under section 6(1) for renewal of a zoo's licence and the authority propose to extend the period of the licence; and

(b) one or more inspections of the zoo are required by section 16,

the authority may combine those inspections with the inspection which is required by section 6(1A)(a).

(4) Where more than one inspection is required under section 16, the authority may combine the inspections.

(5) Subject to subsection (6), where in the course of an inspection under section 10 or 12 or in accordance with this section it becomes apparent to the inspectors that a significant alteration to the licence is likely to be needed, they shall–

(a) consult the holder of the licence about that alteration;

(b) consider whether any new conditions they consider will be needed to secure that alteration will be met if the licence is altered; and

(c) include their findings and recommendations in their report.

(6) Subsection (5) does not apply where the inspection is an inspection before the significant alteration of a licence, and the significant alteration the inspectors consider likely

to be needed is the same or substantially the same as that which the local authority propose to make or the Scottish Ministers propose to direct the authority to make.

(7) An inspection required by section 4(1A)(b) or section 6(1A)(a) (including an inspection required by section 6(1A)(a) which is combined with another inspection) shall be conducted by one or more inspectors nominated, after consultation with the local authority, by the Scottish Ministers from the list.

(8) An inspection required by section 16(2B)(b) or (3A)(b) (including such an inspection which is combined with another such inspection, but not including such an inspection which is combined with an inspection required by section 6(1A)(a)) shall be conducted by one or more persons who appear to the authority to be competent for the purpose and who are authorised by the local authority to conduct the inspection.

(9) Before an inspection is carried out in accordance with this section the authority shall, after consultation with the applicant or operator of the zoo (as the case may be), give the applicant or operator of the zoo at least twenty eight days' notice of the date on which it is proposed to carry it out.

(10) Except in the case of an inspection carried out before the grant or refusal of an original licence, the inspector shall consider whether the conditions attached to the licence are met.

(11) In the case of an inspection carried out before the grant or refusal of a licence, the inspector shall consider whether the conditions proposed by the authority under section 4(1A)(a) are likely to be met if the licence is granted.

(12) In the case of an inspection carried out before the period of an existing licence is extended, the inspector shall consider whether the conditions attached to the licence are likely to be met if the period of the licence is extended.

(13) In the case of an inspection carried out before the significant alteration of a licence, the inspector shall consider–

(a) whether any new or varied conditions proposed by the authority under section 16(2B)(a) or by the Scottish Ministers under section 16(3A) are likely to be met if the licence is so altered; and

(b) whether the conservation measures referred to in section 1A will be implemented at the zoo if the licence is altered as proposed by the authority or the Scottish Ministers (as the case may be).

(14) Except in the case of an inspection carried out before the grant or refusal of an original licence, the inspector may require the production of all records kept by the holder of the licence in pursuance of conditions imposed to ensure that the conservation measures referred to in section 1A(f) are implemented at the zoo and the holder of the licence shall produce the records.

(15) The inspector shall send his report to the authority, and within one month after receiving the report of the inspection the authority shall send a copy to the applicant or operator of the zoo (as the case may be) and give the applicant or operator an opportunity to comment on it.".

13. In section 10(4)(e) (periodical inspections) for "under section 5(3)(b)" substitute "requiring the conservation measures referred to in section 1A(f) to be implemented at the zoo".

14. In section 11(1)(c) (special inspections) after "inspection" insert "in accordance with section 9A or".

15. After section 11 insert–