Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2004 No. (N.I.)

NORTHERN IRELAND

The Dangerous Wild Animals (Northern Ireland) Order 2004

Made - - - - 2004
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the ** day of ** 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Title and commencement

1.—(1) This Order may be cited as the Dangerous Wild Animals (Northern Ireland) Order 2004.

(2) This Article, Article 2 (including the Schedule) and Article 12 shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The remaining provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) Subject to paragraphs (3) and (4), for the purposes of this Order a person is a keeper of an animal if he has it in his possession.

(3) If at any time an animal ceases to be in the possession of a person, any person who immediately before that time was a keeper thereof by virtue of paragraph (2) continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of that paragraph.

(4) Where an animal is in the possession of any person for the purpose of—

(a) preventing it from causing damage,

(b) restoring it to its owner,

(c) undergoing veterinary treatment, or

(d) being transported on behalf of another person,

the person having such possession shall not by virtue only of that possession be treated for the purposes of this Order as a keeper of the animal.

(5) In this Order—

"circus" includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres;

"damage" includes the death or disease of, or injury to, any person;

"dangerous wild animal" means any animal of a kind for the time being specified in the first column of the Schedule;

"the Department" means the Department of the Environment;

"licence" means a licence under this Order;

"licence holder" means a person holding a licence;

"modifications" includes additions, omissions, amendments and substitutions;

"premises" includes any place;

"statutory provision" has the meaning assigned by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

"veterinary surgeon" means a person who is for the time being registered in the register of veterinary surgeons;

"the Welfare of Animals Act" means the Welfare of Animals Act (Northern Ireland) 1972 (c. 7).

(6) The second column of the Schedule is included by way of explanation only and, in the event of any dispute or proceedings, only the first column is to be taken into account.

Licences

3.—(1) Subject to Articles 6(7), 7 and 9(9), a person shall not keep a dangerous wild animal except under the authority of a licence granted by the Department.

(2) The Department shall not grant a licence unless an application for it—

(a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;

(b) specifies the premises where any animal concerned will normally be held;

(c) contains such further particulars as the Department may reasonably require;

(d) is made by a person who—

(i) in the case of an individual is over the age of 18; and

(ii) has not been disqualified under Article 10(2) from keeping any dangerous wild animal; and

(e) is accompanied by such fee as the Department may by order prescribe.

(3) The Department shall not grant a licence unless it is satisfied that—

(a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;

(b) the applicant for the licence is a suitable person to hold a licence;

(c) any animal concerned will at all times when it is being kept only under the authority of the licence—

(i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

(ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;

(d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;

(e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases; and

(f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

(4) The Department shall not grant a licence unless the application for it is made by a person who both owns and possesses, or proposes both to own and to possess, any animal concerned, except where the circumstances are in the Department's opinion exceptional.

(5) The Department shall not grant a licence unless—

(a) a veterinary surgeon or other person authorised under Article 5(1), has inspected the premises where any animal will normally be held under the authority of the licence; and

(b) the Department has received and considered a report by the veterinary surgeon or other person—

(i) containing such particulars as in the Department's opinion enable it to decide whether the animal is likely to be properly cared for and whether the premises are such that any animal proposed to be kept under the authority of the licence may suitably be held there; and

(ii) describing the condition of the premises and of any animal or other thing found there.

(6) Subject to paragraphs (2) to (5), the Department may grant or refuse a licence as it thinks fit, but where it decides to grant such a licence it shall specify as conditions of the licence—

(a) conditions that, while any animal concerned is being kept only under the authority of the licence,—

(i) the animal shall not be kept by any person other than a person specified (whether by name or description) in the licence;

(ii) the animal shall normally be held at such premises as are specified in the licence;

(iii) the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;

(iv) the licence holder shall notify the Department if the animal gives birth or dies;

(v) the licence holder shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and

(vi) the terms of any such policy shall be satisfactory in the opinion of the Department;

(b) conditions restricting the species (whether one or more) of animal, and number of animals of each species, which may be kept under the authority of the licence;

(c) a condition that the licence holder shall at all reasonable times make available a copy of the licence to any person entitled to keep any animal under the authority of the licence;

(d) a condition that the licence holder shall notify the Department of the sale or other disposal of the animal concerned;

(e) a condition relating to the steps to be taken by the licence holder in the event of any escape or release of the animal concerned; and

(f) such other conditions as in the opinion of the Department are necessary or desirable for the purpose of securing the objectives specified in sub-paragraphs (c) to (f) of paragraph (3).

(7) Subject to paragraph (6), the Department may, in granting a licence, specify such conditions of the licence as it thinks fit.

(8) The Department may at any time vary a licence by—

(a) specifying any new condition of the licence; or

(b) varying or revoking any condition of it (including any condition specified, or previously varied, under this paragraph);

but any condition of a licence specified by virtue of paragraph (6) may not be revoked and any condition specified by virtue of sub-paragraph (a)(ii) of that paragraph may not be varied.

(9) Where the Department varies a licence under paragraph (8), then—

(a) if the variation was requested by the licence holder, the variation shall take effect immediately after the Department decides to make it;

(b) in any other case, the variation shall not take effect until the licence holder has become aware of the variation and had a reasonable time to comply with it.

Provisions supplementary to Article 3

4.—(1) Where—

(a) a person is aggrieved by the refusal of the Department to grant a licence; or

(b) the holder of a licence is aggrieved by a condition of the licence (whether specified at the time the licence is granted or later) or by the variation or revocation of any condition of the licence,

he may appeal to a court of summary jurisdiction in accordance with Part VII of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26).

(2) An appeal under paragraph (1) shall be brought within 21 days from the date on which the person wishing to appeal receives notification of the Department's decision to refuse to grant a licence, to specify a condition (whether on the grant of the licence or later) or to vary or revoke a condition, as the case may be.

(3) On an appeal under paragraph (1), the court may confirm, vary or reverse the Department's decision and generally give such directions with respect to the grant of a licence or, as the case may be, with respect to the conditions of the licence as it thinks proper, having regard to the provisions of this Order.

(4) Subject to paragraphs (5) and (6) and to Article 10(2), a licence shall remain in force for a period of 12 months from the date on which it is granted (or for such longer period as the Department may by order prescribe) and shall then expire.

(5) If before a licence expires application is made for a further licence, the licence shall remain in force pending the grant or refusal of the further licence, and if it is granted the further licence shall commence from the date of the expiry of the last licence.

(6) Where the licence holder dies—

(a) the licence shall continue in force for a period of 28 days from the date of death as if it had been granted to the personal representatives of the deceased; and

(b) if application is made for a new licence within that period, the licence shall remain in force pending the grant or refusal of the new licence.

(7) Any person who contravenes Article 3(1) shall be guilty of an offence.

(8) If any condition of a licence is contravened or not complied with, then,—

(a) the licence holder, and

(b) any other person who is entitled to keep any animal under the authority of the licence and who was primarily responsible for the contravention or failure to comply,

shall, subject to paragraph (9), be guilty of an offence.

(9) In any proceedings for an offence under paragraph (8), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Inspection by the Department

5.—(1) The Department may authorise in writing any veterinary surgeon or such other person as it may think competent to do so to inspect any premises where any animal is proposed to be held under the authority of a licence.

(2) A person authorised under paragraph (1) may, on producing his authority if so required, enter any premises mentioned in that paragraph at all reasonable times and inspect them and any animal or other thing found there, for the purpose of ascertaining whether or not a licence should be granted.

(3) Where the Department has authorised any person to inspect premises under paragraph (1), the Department may require the person who applied for the licence to pay it the reasonable costs of the inspection.

(4) Where the Department has granted a licence, it may authorise in writing any veterinary surgeon or such other person as it may think competent to do so to inspect any premises where any animal is or may be held under the authority of the licence.

(5) A person authorised under paragraph (4) may, on producing his authority if so required, enter any premises mentioned in that paragraph at all reasonable times and inspect them and any animal or other thing found there, for the purpose of ascertaining—

(a) whether or not a licence should be varied; or

(b) whether an offence under this Order is being committed.

(6) Where the Department has authorised any person to inspect premises under paragraph (4), the Department may require the licence holder to pay it the reasonable costs of the inspection.

(7) The Department may authorise in writing any veterinary surgeon or such other person as it may think competent to do so to inspect any premises if it has reasonable grounds for suspecting that an animal is being kept there in contravention of Article 3(1).

(8) Subject to paragraph (9), a person authorised under paragraph (7) may—

(a) enter any premises mentioned in that paragraph at all reasonable times;

(b) inspect them and any animal or other thing found there; and

(c) take bodily samples from any animal found there,

for the purpose of ascertaining whether an animal is being kept there in contravention of Article 3(1).

(9) A person authorised to inspect premises under paragraph (7) may only enter those premises under the authority of a warrant issued under paragraph (10).