

# WELFARE OF CATS (BREEDING AND SALE) BILL [HL]

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Welfare of Cats (Breeding and Sale) Bill [HL] as introduced in the House of Lords on 8 June 2015 (HLBill 33).

- These Explanatory Notes have been prepared Lord Black of Brentwood in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

## Background to the Bill

- 1 Cats Protection, a cat welfare charity, have raised concerns that some cats are bred for sale in poor welfare conditions and that the kittens are raised and sold in poor conditions. Animal welfare charities report receiving cats and kittens into their care that are in poor health and were purchased from breeders. Cats Protection have argued that irresponsible breeding for sale adds to the numbers of unwanted cats in need of good homes, citing that one un-neutered female cat can give rise to 20,000 descendants in five years.
- 2 Cat breeding is not regulated in the UK. Regulation of commercial cat breeding already exists in the Czech Republic, various US States, and the Australian states of New South Wales and Victoria.
- 3 There are UK bodies such as the Governing Council of the Cat Fancy (GCCF) and International Cat Care (ICC) that provide advice on good welfare standards with regard to cat breeding. GCCF operate a membership breeder scheme and have a code of ethics. However, there is no legislation regulating the breeding of cats that is equivalent to the legislation in respect to dogs.
- 4 Where cats are bred on a commercial basis the concerns about welfare and the conditions in which the cat and kittens are bred are the same as those which underpin the regulation of dog breeding. This Bill would introduce safeguards for cat welfare through the introduction of a licensing scheme with licence conditions and the power of inspection where a business breeds cats for sale.

## Current legislation

- 5 In the case of dogs, there is distinct legislation for breeding and for selling, and there are two licensing regimes. Establishments used for the breeding of dogs are currently regulated by the Breeding of Dogs Acts 1973 and 1991 and by the Breeding and Sale of Dogs (Welfare) Act 1999, under which a licence to breed is required. A licence is also needed under the Pet Animals Act 1951 (“PAA”) if someone is selling dogs in the course of a business at a pet shop or from a private dwelling.
- 6 Anyone selling cats in the course of a business needs a licence under the PAA 1951 to do so unless they fall within the PAA exemptions (see below). Unlike dogs, no licence is required to breed and sell cats.

## Pet vending - The Pet Animals Act 1951 (PAA) and its exemptions

- 7 The PAA, which applies in England, Wales and Scotland but not Northern Ireland, regulates the selling of companion animals at any premises (including a private home), in the street or in a public place. Those who “carry on a business” of selling companion animals require a licence to sell from the local authority, and can be fined up to £500 or imprisoned for up to three months for failing to get a licence or for breaching the conditions of the licence. Local authorities have powers of inspection of pet shop premises.
- 8 The PAA is now over 50 years old and was drafted when pets were mostly sold at traditional pet shops and sales in the street and public places. Pet sales have changed since the 1950s and now fewer cats are sold in pet shops. The commercial market chiefly operates through small advertisements and online.
- 9 The PAA and its licence scheme does not address the issue of breeding, only sale through pet shops as defined in the Act. There are also exemptions within the PAA for those who sell:
  - pedigree animals (i.e. eligible for registration with a recognised club or society keeping a register of animals of that description – e.g. the Governing Council of

the Cat Fancy (GCCF);

- litters of family pets; and
- animals bred for showing or breeding but which cannot be used for those purposes.

- 10 Cats Protection suggest that due to the PAA exemptions regarding hobby breeders and family pets, in practice, the majority of commercial sales of cats are unregulated .
- 11 The Bill would require a commercial breeding licence of those who currently breed and sell cats, yet can operate under the PAA without requiring a pet shop licence.

## Model Licensing Conditions for Pet Vending

- 12 There are Model Conditions for Pet Vending Licensing issued by the Chartered Institute of Environmental health (CIEH) - updated in 2013 - which local authorities can choose to adopt as conditions of licences granted in respect of sales of pets in the course of a business under the PAA.
- 13 These address commercial sales and are not about commercial breeding. Also, because of the exemptions in the PAA (set out above) many commercial breeders will fall within the exemptions and can claim exemption from licensing and from the model licence conditions.

## Animal Welfare Legislation

- 14 The Animal Welfare Act 2006 (AWA) imposes a duty upon anyone “responsible for” cats, including pet-shop owners and those engaged in their breeding and selling, to ensure welfare in accordance with the “five welfare needs.” Individuals may also be prosecuted under this Act for causing unnecessary suffering.
- 15 However, there is currently no regulation requiring licensing of those who breed and sell cats on a commercial basis and so no licensing conditions or powers of inspection for licensing authorities to enforce the duty to ensure welfare. Without the power of inspection, breaches of the duty to ensure welfare may go undetected unless a person is reported for breach of that duty to ensure welfare, and where this happens it may be too late to prosecute or to prevent harm being done. This Bill seeks to prevent the breach of that duty and ensure good welfare practice where there is a business of breeding cats for sale.
- 16 Section 12 of the AWA 2006 enables the Secretary of State and the National Assembly for Wales to make regulations to promote the welfare of animals for which a person is responsible, or the progeny of such animals. Including the progeny of animals in this regulation-making power enables regulations to be introduced governing animal breeding that protect the offspring as well as the parent animal. There have been no regulations made under section 12 that would regulate commercial cat breeding and no announced Government intention to make any at the date of writing.
- 17 Section 13 AWA enables (regulations) to be passed to repeal the PAA and replace it with new regulations on “Pet Vending” and to introduce an updated licensing regime in respect of commercial sales of pets. There have been no Regulations proposed or passed under section 13 which would change the current licensing regime for commercial sales of pets (which may or may not include commercial breeding of pets and may benefit cats).

## Bill provisions

- 19 The Bill's provisions set out the framework for a local authority inspection and licensing regime where cats are bred commercially. It defines a business of breeding cats (clause 6) for which a licence would need to be obtained from the local authority.
- 20 There exist Model Licencing Conditions for dog breeding establishments. If the Bill is enacted something similar would be introduced for commercial cat breeding establishments.
- 21 The Bill provides that local authorities would be responsible for granting licences and for inspection.

### Clause 1: Licensing of breeding establishments

- 22 Subsection (1) provides that a licence would be required under the provisions of this Act for any "breeding establishment for cats", as defined in the Act. Subsection (2) sets out who would be disqualified from applying for and obtaining a licence under the provisions of this Act, based on disqualification under other relevant legislation.
- 23 Subsections (3) and (4) provide for a local authority to inspect and report on any premises for which a licence under this Bill is sought.
- 24 Subsections (5) to (7) set out the factors that a licensing local authority should have regard to when inspecting premises for a licence, without prejudice to their discretion to withhold a licence on other grounds. Subsection (7) allows a Local Authority to impose additional licence conditions. Subsection (8) sets out the requirements on a person who holds a licence. The requirements set out in subsection (8) include: whether there is a programme for enrichment and socialisation in a form approved by the local authority and whether records are kept by the licence holder. Subsection (8) also sets as 56 days old the minimum age that kittens can be sold under a licence granted pursuant to this Act.
- 25 Subsection (10) sets out a right of appeal for any person who has been refused a licence by a local authority.
- 26 Subsection (11) explains that a licence either comes into force on the day on which it is granted, or the beginning of the following year, and subsection (12) explains that a licence remains in force until the end of the year in which it is granted.
- 27 Subsection (15) provides that any person who operates a breeding establishment for cats without a licence, or breaches a condition on which a licence is granted, is guilty of an offence.

### Clause 2: Inspection of breeding establishments for cats

- 28 Subsection (1) specifies who may inspect licensed premises or premises subject to a licence application, and provides that the inspector should comply with any precautions specified by the local authority to prevent the spread of infectious or contagious diseases among animals. Subsection (3) provides that obstructing or delaying exercise of the power to inspect such premises is an offence.

### Clause 3: Power to inspect premises

- 29 Clause 3 sets out in detail, provisions for warrants and powers of entry on suspicion of an offence under section 1 of this Act.

### Clause 4: Offences and disqualifications

- 30 Clause 4 sets out in detail, fines and sentencing on summary conviction for an offence under section 1 of this Act. It also provides for the power to cancel licences, disqualify licence holders, require offenders to deliver up the cat(s) to a specified person, and to require offenders to pay

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for care of the cat(s).

### Clause 5: Fees

- 31 Clause 5 sets out a licence fee paying system and subsection (3) outlines that a local authority might recover the “reasonable costs incurred by them”, in connection with the administration and enforcement of this Act, through licence fees.

### Clause 6: Interpretation

- 32 Clause 6 defines the circumstances in which a premises is deemed to be a breeding establishment for the purposes of this Act. Subsections (2) and (3) require that to fall within this definition, a person must be carrying on of a business of breeding cats at the premises in question. A person is deemed to be carrying on a business of breeding cats if three or more litters are born to queens at the premises within a period of twelve months. There is no requirement in clause 6 to show how many breeding queens have given rise to the minimum threshold for a licence of three litters.
- 33 Subsection (5) makes clear that a person is not deemed as carrying on a business if there was no sale or advertisement for sale during the period in question.

### Clause 7: Extent, commencement and short title

- 34 The extent of the Act is England and Wales. The Wales Act 2006 gives the National Assembly for Wales devolved powers in the area of agriculture, including animal health and welfare. Since the Bill relates to devolved matters, the consent of the National Assembly of Wales would be required.



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