



House of Commons
Regulatory Reform Committee

Draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009

Seventh Report of Session 2008–09

*Report, together with formal minutes and
written evidence*

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The Regulatory Reform Committee

The Regulatory Reform Committee (previously the Deregulation and Regulatory Reform Committee) is appointed to consider and report to the House on draft Legislative Reform Orders under the Legislative and Regulatory Reform Act 2006. Its full remit is set out in S.O. No. 141, which was approved on 4 July 2007.

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Criteria against which the Committee considers each draft legislative reform order

Paragraph (3) of Standing Order No.141 requires us to consider any draft legislative reform order against the following criteria:

... whether the draft legislative reform order —

- (a) appears to make an inappropriate use of delegated legislation;
- (b) serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);
- (c) serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);
- (d) secures a policy objective which could not be satisfactorily secured by non-legislative means;
- (e) has an effect which is proportionate to the policy objective;
- (f) strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- (g) does not remove any necessary protection;
- (h) does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
- (i) is not of constitutional significance;
- (j) makes the law more accessible or more easily understood (in the case of provisions restating enactments);
- (k) has been the subject of, and takes appropriate account of, adequate consultation;
- (l) gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant;
- (m) appears to be incompatible with any obligation resulting from membership of the European Union.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/regrefcom. A list of Reports of the Committee in the present Session of Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are John Whatley (Clerk), Neil Caulfield (Inquiry Manager) and Liz Booth (Committee Assistant).

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Summary

The draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009 and Explanatory Document were laid before Parliament by the Department for Environment, Food and Rural Affairs on 17 June 2009 under section 14(1) of the Legislative and Regulatory Reform Act 2006.

The purpose of the draft Order is threefold:

- It seeks to remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement or second licence;
- It extends the period of validity of a licence from a maximum of one calendar year to two years;
- It provides that licences (other than in the case of licence renewals) will come into force immediately upon their being granted.

We believe that the responsibilities relating to the consultation procedures as given in section 13 of the Legislative and Regulatory Reform Act 2006 have been fulfilled.

We agree that the draft Order, if approved, would reduce a burden.

We conclude that all requisite preconditions and tests have been met.

We deprecate the seeming current high level of non-compliance with the requirements of the Dangerous Wild Animals Act 1976 and the inconsistent application of its terms by local authorities.

We recommend that the draft Order be approved.

We agree that the affirmative resolution procedure is appropriate.

1 Introduction

1. The draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009 and Explanatory Document were laid before Parliament by the Department for Environment, Food and Rural Affairs (DEFRA) on 17 June 2009 under section 14(1) of the Legislative and Regulatory Reform Act 2006 (LRRRA). The draft Order extends to England and Wales only. The Government believes that under the terms of section 1(2) of the LRRRA, adoption of the draft Order would remove or reduce burdens by reducing costs and that the draft Order passes the tests derived from section 3(2) (need for legislation, proportionality, balance, preservation of protections, rights and freedoms and absence of constitutional significance). The affirmative procedure is recommended.

2. The draft Order proposes three amendments to the Dangerous Wild Animals Act 1976 which are designed to improve the licensing regime for the keeping of dangerous wild animals and thereby reduce a burden on local authorities and relevant keepers, whilst at the same time retaining public safety benefits. Keepers maintaining high standards are expected to benefit most from the proposed changes. A review of their effect would be undertaken after four years.

3. A consultation on the draft Order took place between 2 June and 22 August 2008. The proposals then on the table included removing from the Dangerous Wild Animals Act 1976 the requirement for certain animal welfare conditions to be satisfied before a licence could be granted. In light of concerns voiced in the responses to the consultation this item was dropped.

2 Background

4. The Dangerous Wild Animals Act 1976 (the Act) is primarily a public safety measure designed to protect against risks arising from the keeping of dangerous wild animals. It also contains some welfare provisions. There have been no serious incidents relating to escaped dangerous animals since the Act was passed.¹ The Act is administered and enforced by local authorities.

5. The Act is essentially aimed at private animal keepers. It enables the pre-licensing assessment of both keeper and premises in order to determine the suitability of an individual to care for the welfare needs of animals and ensure that premises are fit for purpose, including protecting public safety.

6. The Act exempts many commercial businesses such as pet shops, zoos, circuses and scientific establishments, which are regulated under separate legislation. It does not define what constitutes a dangerous wild animal, but lists on a schedule those which are subject to its provisions. Anyone wishing to keep an animal listed on the schedule must apply for a licence from the appropriate local authority. Such licences (fees for which vary from authority to authority) can only be granted following an inspection by a vet whose cost is

¹ ED, p12.

paid for by the keeper concerned. Currently they are valid for the calendar year in which they were issued and must be renewed annually after further inspection.

7. The Explanatory Document (ED) states that demands from animal organisations and keepers to reform the Act have been long-standing.² Anecdotal evidence indicates ‘a high level of non-compliance by keepers and inconsistent implementation by local authorities’.³

3 What the draft Order proposes

8. The purpose of the draft Order is threefold:

- It removes the requirement for inspections to be carried out in respect of certain applications for the grant of a replacement or additional licence. Where the holder of an existing licence applies for another licence in respect of the same species of animal as is covered by an existing licence, or an animal of another species within the same family of species, inspections will be required only when the local authority considers it to be necessary. Inspections will remain a requirement in relation to other applications for a licence;
- It extends the period of validity of a licence from a maximum of one year to two years and;
- It provides that licences will come into force immediately upon their being granted (rather than from either the date of grant or the beginning of the next following year, as was previously the case) except for renewals of a licence applied for before the expiry of the licence it is to replace, in which case the subsequent licence will come into force from the date of expiry of the licence it replaces.

Removing the requirement for inspections

9. At the moment the Act requires that an inspection is undertaken following every application for a licence, including applications for replacement licences when circumstances may not have changed. The first proposal in the draft Order seeks to provide local authorities with flexibility with regard to making such inspections. Premises will be inspected following a first application, but subsequent inspections where the holder of an existing licence applies for another licence in respect of the same species of animal as is covered by an existing licence, or an animal of another species within the same family of species, will only be required when the local authority thinks it is necessary. Examples of circumstances which might provoke local authority inspection include those where there is particularly high risk, where new species are to be kept or where there are concerns about the keeper.

10. It is expected that reducing the number of routine inspections will allow local authorities to concentrate their attention on premises or keepers that raise concerns. Local authorities will retain the ability to inspect premises before issuing a new licence and in the

2 ED, para 2.3, p4.

3 *Ibid.*

case of renewals if they so wish (although this will not be mandatory if the draft Order is approved) and at other times if they consider it necessary. They will also be in a position to authorise veterinary inspection of premises at any reasonable time, as is now the case.

Duration and commencement of licences

11. The subsequent two proposals deal with the duration and commencement time of licences. Currently licences are valid for one calendar year. They automatically expire on 31 December, no matter when they were granted (unless they have been issued in advance for the next calendar year). Therefore they must be renewed annually.

12. The proposed changes would extend the licence period to two years and provide that licences (other than licence renewals) will come into force immediately on their being granted. A two-year licence would effectively reduce the relevant fees payable by keepers by 50 per cent. In addition there would be a consequent decrease in the application and processing administration for both keepers and local authorities.

13. With regard to licence renewals, the proposed changes would mean that where an application is made and a licence granted prior to the expiry of the original licence, the new licence would be valid from the date of expiry of the first licence. Where an application is made for a renewal licence in advance of the expiry of the original licence, but the grant or refusal of that application occurs after the date of expiry of the existing licence, then the existing licence remains in force until the licence is granted or refused. In either case, the renewal licence must be granted for at least one species of animal which is included in the licence it replaces (whether or not it also covers other species).

4 Impact assessment

14. Using a small sample base⁴, the average cost of a licence fee has been estimated at £185 (although some councils are likely to charge more) and the average vets' fee at £105,⁵ making the rough annual cost to an applicant for a licence to be £290. A time cost is also incurred by keepers in completing the application and attending inspections. The ED calculates that if the proposals are adopted then, all things considered, over a four year period a collective saving for keepers of £229,313 would be achieved. In addition there might well be small cost savings for local authorities as a result of less frequent licence processing and inspections, although these are bound to be limited since the aim is for local authorities to achieve full cost recovery.

5 Consultation

15. Section 13 of the LRA sets out necessary consultation procedures which must be undertaken in connection with prospective legislative reform orders.

⁴ Sought via a questionnaire included in the 2008 consultation. See ED, para 2.8, p22.

⁵ ED, para 4.28, p22.

16. In this case the consultation exercise took place between 2 June and 22 August 2008, involving ‘nearly one hundred...’⁶ interested parties. There were 44 responses. At that stage, the removal of certain animal welfare provisions from the Act was included in the draft Order and a number of respondents to the consultation took issue with this proposal which was subsequently dropped. The Explanatory Document says that ‘There was general support for the Department’s proposed revisions to the DWAA...’⁷

17. However, some organisations expressed the view that ‘loosening the requirements of the DWA Act’⁸ would be leading to a less stringent inspection and licensing regime, diminish its original purpose of protecting public safety. We consider this point in the next section of the Report (see paragraph 22).

Devolved administrations

18. The Act applies in England, Wales and Scotland, but ‘animals’ issues are devolved to Scotland. The draft Order therefore extends to England and Wales only. Functions under the Act have not been transferred to Wales and no formal consent from the National Assembly or Welsh Ministers is required in this instance, although as a courtesy the Minister concerned has written to the relevant Welsh Minister about the intention of the draft Order. Northern Ireland has its own Dangerous Wild Animals Order.

19. **We believe that the responsibilities relating to the consultation procedures as given in section 13 of the LRRRA have been fulfilled.**

6 Preconditions and tests

20. The Government believes that under section 1(2) of the LRRRA the proposals in the draft Order would result in a reduced burden for both local authorities and keepers caused by lowering costs, including time costs. **We agree that this would be the case.**

21. Section 3(2) of the LRRRA requires and House of Commons Standing Order Nos 141 and 151 and set out preconditions and tests with which draft LROs must comply. Broadly, these are that:

- the policy objective could not be better secured by non-legislative means;
- the effects of the proposed changes to the law are proportionate to the policy objective;
- the proposed changes strike a fair balance between public and private interests;
- the proposed change to the law does not deprive anyone of a necessary protection;
- it will not prevent anyone from continuing to exercise a right or freedom that they might reasonably expect to continue to be allowed to do;

6 ED, para 3.4, p7.

7 ED, para 3.7, p8.

8 ED, para 3.14, p9.

- it is not of “constitutional significance”.

22. All things considered, **we conclude that the requisite preconditions and tests have been met.** But as noted in paragraph 17, some reservations have been expressed about the impact of the draft Order’s proposals on public safety. We will comment briefly on our reaction to whether or not a protection will be removed and related matters.

23. If the legislation is properly enforced it is likely that such fears will prove to be unfounded. But to date both the Department for Environment, Food and Rural Affairs and individual local authorities have allowed drift to the point that, in the words of the Explanatory Document, ‘...the DWAA is currently poorly regarded’⁹ and there is ‘growing anecdotal evidence to suggest a high level of non-compliance by keepers and inconsistent implementation by local authorities’.¹⁰ **We deprecate the fact that such a situation has been allowed to develop,** but at the same time accept the point that where dangerous wild animals are kept surreptitiously licensing and enforcement becomes inherently more difficult.¹¹

24. It seems to us that DEFRA and relevant local authorities are equally at fault here. If there was ‘growing’ evidence of non-compliance (which means breaking the law) and inconsistent implementation, DEFRA should have acted promptly to try to tackle the problem rather than waiting to deal with it through the current LRO, which it might be argued could tend towards relying on the proverbial hope over expectation.

25. Perhaps part of the problem is the absence to date of any meaningful guidelines for local authorities about the Act.¹² This is due to change with comprehensive guidance on aspects of the Act being prepared. DEFRA believes that this will be welcome and enable ‘a better understanding of the provisions of the Act and help towards a more consistent implementation of it’.¹³ In the initial review which led to the present draft Order, it was proposed that there should be a clear duty imposed on local authorities to have regard to the guidance. However, ultimately it was decided that ‘Government guidance has sufficient status without such a duty’.¹⁴ Over-reliance on the prospective guidelines to alleviate some of the current difficulties could well prove to be something of a pitfall if adequate monitoring is not put in place.

26. The proposed new arrangements should not be seen as a means of letting complacent local authorities off the hook by introducing a more relaxed regime for inspections. There is no excuse for them not to fulfil their obligations under the Act given that the intention is for all costs to be recovered. They need to pay full attention to the potential public safety and animal welfare issues about which the Act charges them with oversight and target their efforts accordingly. **We urge DEFRA to police the situation more rigorously in future than it has done in the past.**

9 ED, para 2.2, p4.

10 *Ibid*, para 2.3, p4.

11 See Annex, response to Q3.

12 See Annex, response to Q7.

13 *Ibid*.

14 *Ibid*.

27. In light of the fact that in the context of a review of the new provisions, DEFRA will be able to seek information about enforcement and inspection arrangements (which surely it should be in a position to do now anyway), **we recommend that the Environment, Food and Rural Affairs Committee consider putting questions about the working of the Act during its annual review of the DEFRA Departmental Report.**

28. Whilst it is not entirely clear to us how the content of the draft Order would improve the general opinion of the Act and increase compliance and a more consistent approach to implementation, we are inclined to accept the Government's view that greater flexibility and the move to a more targeted approach to inspections will be a beneficial by allowing for a proportionate assessment of risk, providing that the local authorities concerned do what they are supposed to. **We therefore believe that no necessary protection will be removed.**

7 Conclusion

29. Although we are unhappy about aspects of the situation as it now exists with regard to the working of the Act, we agree that overall the terms of the draft Order, which are designed to reduce burdens and make for a potentially more efficient administration, are reasonable and practical and are likely to introduce at least a modicum of improvement to the current state of affairs. Further, whilst the anticipated cost savings over four years are not vast, they will matter to the individual. **We therefore recommend that the draft Order be approved.**

30. The Minister of State at the Department for Environment, Food and Rural Affairs has recommended that the affirmative resolution procedure should apply. **We agree that this is appropriate.**

8 Annex

Response by the Department for Environment, Food and Rural Affairs to written questions

Q1 How many licences to keep dangerous wild animals are there currently? What is their geographical spread?

As the Act is administered and enforced at local authority level the Department does not hold centralised records of licences issued. In an attempt to ascertain the number of animals licensed by local authorities over the last three years a questionnaire was included in the 2008 consultation. Unfortunately the response rate was poor. For the purposes of completing the Impact Assessment, contained in the Explanatory Document, the number of licences issued per year was taken as 375, a figure based on a survey taken as part of the Act's review in 2000.

Q2 Paragraph 2.2 of the Explanatory Document says that the Dangerous Wild Animals Act 1976 is 'currently poorly regarded', why is that? In what way will the proposed changes make the legislation more highly regarded?

The IZVG study in 2001, which was tasked with looking at the effectiveness of the Act and to propose solutions to address any shortcomings identified, reported that the Act had been broadly effective inasmuch as there had been no reported serious injuries to the public caused as a result of escaped dangerous wild animals. However the study also pointed to the views of many keepers that the controls extended to non-dangerous animals and that there were widespread disparities in licence and inspection fees set by local authorities. In addition the study also identified weaknesses in enforcement of the Act leading to flouting of its provisions and hearsay evidence that some local authorities were adopting blanket policies to refuse all licence applications.

The major issue of non-dangerous animals being subject to control has been addressed by the revision of the Schedule (list of species) in 2007 when over 30 species deemed not to be dangerous were removed from licensing control. The additional changes to the Act proposed in the Order will mean that applicants will see their licence and inspection fees halved over a two year period, which may also lead to those who are not currently complying seeking the appropriate licences, with a possibility of further savings through a less rigorous inspection regime upon renewal. The Act will be less burdensome both on keepers and local authorities with regard to administration and help local authorities to better focus its enforcement of the Act. The guidance too will assist local authorities in better and more consistent implementation of the legislation and they will also be better placed to deal with applications, licence issuing and day to day queries with the guidance to hand.

Q3 Paragraph 2.3 of the Explanatory Document reveals that there is 'growing anecdotal evidence to suggest a high level of non-compliance by keepers and inconsistent implementation by local authorities'. What form does non-compliance take? Why has this situation been allowed to continue? Would a two-year licence 'encourage greater compliance'?

The most common example of non-compliance is likely to be keeping of animals without an appropriate licence. Many dangerous wild animals are not kept in public view and therefore there is less chance of the keeping being reported by a third party or the local authority becoming aware of their presence and being able to carry out enforcement action. It is, of course, not possible to address this form of non-compliance where authorities are unaware of the existence of the animals in the first place.

Currently licences are only valid for the calendar year in which they have been granted, even if they have been issued in December they automatically expire on 31 December, or for (the whole of) the following year. This means they must be renewed annually. The proposal to extend a licence period to two years will mean that fees paid by keepers for such licences would only be payable once every two years thereby halving the costs to the keeper. In addition the licence will be valid for a full two years giving more value for money. There would

also be a reduction in administrative burdens for keepers in applying for licences and being available for inspections. These reasons, along with clarification about licence fees and their needing to be proportionate to the burden of licence issuing (which will be contained in the guidance for local authorities) is likely to see an increase in compliance. Overall reform of the legislation should assist with buy-in from keepers and clubs and keeper organisations are also more likely to require compliance with the Act as a condition of membership if the Act is more credible.

Q 4 Are there any statistics indicating how individual local authorities carry out their role with regard to ensuring compliance with the Dangerous Wild Animals Act 1976? Does the Department have any plans to monitor how individual local authorities carry out their enforcement and inspection arrangements if the proposed changes are approved?

The Department is not aware of any statistics kept by local authorities with regard to compliance with the Act. There will be many local authorities who never have cause to issue a dangerous wild animal licence and many who only issue only one or two a year. The assumption is that there are processes in place within the authorities to ensure that keepers apply in good time and that relevant checks are made to ensure appropriate licences are in place. The administration and enforcement of the Act is the responsibility of the local authorities and this will continue to be the case if the proposed changes are approved.

The Department will be able to seek information with regard to enforcement, and how well the new inspection arrangements have worked, as part of a review of the new provisions. The review, which will look into whether the provisions are meeting the original objectives of reducing administrative burden and improving compliance with the Act, would be undertaken four years from the Order coming into force to allow for the new process to bed in and to cover two licensing periods.

Q 5 Paragraph 2.6 of the Explanatory Document states 'The key risk if we do not proceed is that the legislation will continue to be inconsistently applied...'. How would the proposed changes overcome the problem of inconsistent application?

The proposed changes will allow local authorities to better focus their inspection regime on higher risk areas and also improve the areas of enforcement, making use of the overall reduction in administrative burden brought about by the Order. Enforcement is likely to be more effective if the legislation is more flexible, requiring less routine inspection and allowing for more targeting of situations where there are concerns or where risks are perceived to be higher.

The changes are part of an overall package which aims to make the Act proportionate to the regulation of dangerous wild animals and consistent with “Hampton principles” with regard to enforcement and inspection. The Schedule to the Act was revised in 2007, when over 30 species which posed little or no threat to public safety were removed, and guidance for local authorities and keepers on the provisions of the Act is currently being drafted (there being none made available since the Act came into force in 1976). It is hoped that this guidance will assist in tackling problems of inconsistent or poor implementation and enforcement of the legislation. This should, in turn, assist with increasing support and compliance amongst animal keepers and, ultimately, in more effective operation of the Act and protection of the public from the potential threat of escaped dangerous wild animals.

Q 6 Local authorities set the fees charged for licences and inspection. They are designed to cover the overall costs. Since this appears to create a cost-neutral exercise for local authorities themselves, what are the reasons for the current problems with inconsistent application?

The Act does allow for local authorities to charge a fee for applications which “...is in the authority’s opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application..” However a number of surveys, details below, have shown that there are wide discrepancies between the licence fees charged by certain local authorities:

2001 – lowest fee = £25, highest fee = £525
2004 – lowest fee = £46.50, highest fee = £1,000plus
2007 – lowest fee = £59, highest fee = £402 (small sample)

The feeling is that such variance has led to some keepers deciding not to apply for licences because of their high level, especially as it is possible that the local authority adjacent could be charging much less for a licence.

Q 7 Since the responsibility for the issue of licences to keep dangerous wild animals and the subsequent inspection regime rests with local authorities, the Explanatory Document places a lot of emphasis on guidance issued to councils about various aspects of the matter. What guarantee is there that councils will properly take into account this guidance and what sanctions exist for those who fail to do so?

Our understanding is that local authorities will welcome guidance, something that has been lacking since 1976, which will give them a better understanding of the provisions of the Act and help towards a more consistent implementation of it. An early proposal in the overall review was for there to be a clear duty on local authorities to have regard to the guidance, however it was decided that Government guidance has sufficient status without such a duty. There are no sanctions available but the guidance will be widely available, to keepers and others who may wish to keep dangerous wild animals, and the local authority will be more open to challenge over decisions it makes and will need to ensure that the decisions they do make are robust and stand up to possible closer scrutiny.

Q 8 Please would you summarise the responses by animal welfare organisations to the proposals as they now stand; indicate how, if at all, any remaining concerns they have are being dealt with; and clarify what animal welfare safeguards will underpin the changes proposed in the draft Order.

The most vehement and consistent opposition from animal welfare organisations was with regard to our proposal to remove the welfare provisions of the Act and rely on the provisions of the Animal Welfare Act 2006 (AWA) instead. In light of these objections it was decided not to include the provision in the draft Order as it was felt, after further consideration, that the provisions of the AWA did not negate the need for the protection afforded by the Act.

The animal welfare organisations were not keen on the remaining proposals either which they perceive as a lessening of the controls on the keeping, and potentially the welfare, of exotic animals. Many of these organisations work from the baseline that such animals should not be kept privately in the first place. Their concerns should be viewed in the context that the Act is primarily a public safety piece of legislation (albeit there are some ancillary welfare provisions contained in it and these are to be retained) and is regulatory in nature rather than prohibitive – it does not deny the right for people to keep such animals provided a licence is in place.

(a) remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second, licence

Welfare organisations' concerns were with regard to the possible effects on the welfare of the animals. Issues raised were: many contentious species were recently removed from the Schedule so it was more important that those animals genuinely deemed dangerous were inspected regularly; if the licence was to be valid for two years the risks associated should be assessed at each licence renewal; premises could continue indefinitely under the licence without inspection (thereby leading to a risk to public safety). One suggested that inspections should remain mandatory for all renewals.

The intention of this proposal is to provide local authorities with flexibility in the requirements to undertake inspections, however the ability to forego certain replacement or second licence inspections only applies in limited circumstances. It is not a broad-brush approach. The Department will make it perfectly clear in the guidance as to when inspections are required, and when they can be discretionary, and that inspections can still be carried out by local authorities even when they are not mandatory and also at any time as they see fit. It may be that local authorities continue to inspect at all times, maintaining the status quo, and the level of inspections (whether they reduce or not) will be one of the areas we look at when a review is undertaken (four years after the proposed changes come into force).

(b) To extend the period of validity of a licence from a maximum of one year to two years.

(c) To provide that licences will come into force immediately upon their being granted (rather than, as was the case previously, from either the date of grant or the beginning of the next following year).

Welfare organisations thought that by extending the validity of a licence, and increasing the possible interval between inspections, this would lead to increases in the number of animals kept and premises being uninspected for many years leading to unacceptable standards of accommodation and an increase in animal suffering.

Department response: The area of inspections has been addressed in the response to proposal a) above. The onus will remain on local authorities to enforce the legislation (with the help of new guidance) and the proposals as a package are intended to make enforcement more effective through making the legislation more flexible. Fewer routine inspections will allow for more targeting of situations where there are particular concerns, where the risk is perceived to be higher or where particularly sensitive species are involved.

The Department is not aware of any other such concerns from animal welfare organisations.

As the original proposal to remove the welfare provisions of the Act is not now included in the draft Order the original welfare safeguards are retained. Before a licence can be granted the local authority must be satisfied that the animals concerned will be held in accommodation which is suitable regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and is suitable for the number of animals which are to be kept there. The animals also need to be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals. The accommodation also has to allow for adequate exercise. Mandatory conditions pertaining to these provisions are attached to the licence along with any other conditions as the local authority sees fit. In addition keepers will need to have regard to the provisions of the AWA, with its duty of care, and the AWA can be used to investigate behaviour subsequent to Dangerous Wild Animal Act licensing that was likely to constitute an offence under it.

Q 9 Paragraph 2.11 of the Explanatory Document states that 'The proposal will enable inspections and administrative effort to be more focused on risk and on the regulatory objectives. The ability to forego renewal inspections will only apply in limited circumstances...'. What are the limited circumstances which will enable a renewal inspection to be dispensed with?

The proposed draft Order will amend section 1(5) of the Act and remove the mandatory requirement for inspections to be carried out in respect of certain applications, i.e. where what is required is the replacement of a licence only for a species that is subject to an existing licence, or the grant of a licence in respect of a species from the same family as a species for which a licence is currently held.

So, where the holder of an existing licence applies for another licence in respect of:

- the same species of animal as is subject to his existing licence;
- or an animal of another species within the same family of species as that which is subject to his current licence;

and where:

- the conditions of the new licence as regards the keeping of any animal are to be substantially the same as the existing licence; and
- the local authority is satisfied that the grant of the new licence is not contrary to the public interest on the grounds of safety, nuisance or otherwise;

inspections will be required only when the local authority considers it to be necessary. The local authority will retain the ability to inspect prior to issuance of a new licence, in the case of renewals if they so wish (although this will not now be mandatory) and also at other times as it sees fit.

Q 10 Paragraph 2.14 of the Explanatory Document says that the Dangerous Wild Animals Act 1976 'is primarily aimed at private animal keepers and exempts many commercial businesses such as pet shops,

zoos, circuses and scientific establishments. However, some small businesses are affected by the legislation'. Paragraph 2.15 adds that 'It is confidently expected that small businesses will welcome the changes.'. Which small businesses would be affected by the changes proposed in the draft Order and what research has been done into the likely impact on them and their reaction to it?

Animals are kept privately but some small firms, mainly farms (involved in Ostrich and wild boar farming), are affected by the existing legislation and the proposed changes to it. Small businesses have been consulted throughout the long review process leading up to this Order, with the Small Business Service being consulted in each of the last two public consultations (2004, 2008). In addition we have consulted other relevant organisations, namely: the National Farmers Union (both England and Wales); the Country Land and Business Association; the British Wild Boar Association and the British Domestic Ostrich Association. None has raised objections to the proposals.

No research has been done on the impact on small businesses but the benefits for them are likely to be aligned with those which private keepers should gain through the proposed changes, namely, the halving of application/vets fees over a two year period and a reduction in the administrative burden of form filling and attending inspections.

Formal Minutes relating to the report

Tuesday 23 June 2009

Members present:

Andrew Miller, in the Chair

Gordon Banks
Lorely Burt

Dr Doug Naysmith
Phil Wilson

Draft Report (Draft Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 30 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

[Adjourned till Tuesday 7 July at 9.30 am

List of Reports from the Committee during the current Parliament

Session 2008-09

First	Draft Legislative Reform (Insolvency) (Advertising Requirements) Order 2009	HC 181
Second	Draft Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009	HC 209
Third	Draft Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009	HC 210
Fourth	Draft Legislative Reform (Local Government) (Animal Health Functions) Order 2009	HC 399
Fifth	Draft Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009	HC 400

Session 2007-08

First	Draft Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2007	HC 135
Second	Draft Legislative Reform (Health and Safety Executive) Order 2008	HC 398
Third	Draft Legislative Reform (Consumer Credit) Order 2008	HC 939
Fourth	Draft Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008	HC 940
Fifth	Getting Results: the Better Regulation Executive and the Impact of the Regulatory Reform Agenda	HC 474-I and II
Sixth	Draft Legislative Reform (Lloyd's) Order 2008	HC 1090