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Journal

of Animal Welfare Law

inside this supplementary edition:

**Contemporary Dog-fighting
Law in the UK**

Bats and the Law

**Wild Animals as Pets: The
case for a review of the Pet
Animals Act 1951**



Contents

Editor's note

1-10 Contemporary Dog-fighting Law in the UK

11-16 Bats and the Law

17-19 "The Hunting Act 2004 has been a useless piece of legislation and therefore should be repealed."
Discuss

20-23 Animal Welfare Law and Policy news roundup

24-28 Wild Animals as Pets: The case for a review of the
Pet Animals Act 1951



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Editor's note

Welcome to a supplementary Journal of Animal Welfare Law (published to supplement the single journal published last year).

I am delighted to include the winner of ALAW's annual student essay completion. The author of the winning essay, Natalie Kyneswood, considers whether the Hunting Act 2004 should be repealed.

Angus Nurse and Simon Harding provide an analysis of dog fighting including its topology and where it sits in relation to legislation. Julia Boyd explores the legal protection of bats and discusses the often contentious issue of bats roosting in churches. Anna Wade and Chris Draper argues for an urgent review of the Pet Animal Act 1951 to better protect wild animals.

Finally, thanks to Paula Sparks for providing the material for the Animal welfare law and policy news roundup.

Jill Williams
Editor

Wild Animals as Pets: The case for a review of the Pet Animals Act 1951

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Humans have a complex and long-standing history and relationship with animals. A small minority of the world's animal species have been selectively bred by humans over multiple generations across millennia for specific physical and/or behavioural traits. This process is known as domestication and involves changes to the genetic make-up of the animal. These domesticated species are commonly kept as livestock and companion animals. While non-domesticated (or "wild") animals¹ have been kept as companion animals in small numbers throughout history, it is apparent that in recent decades there has been an

increase and diversification in the number and range of species kept, and this has resulted in a rise in the keeping and selling of wild animals as pets in Great Britain.

This increased diversity may cater to public demand for increasingly exotic and unique pets. Nonetheless, it is the position of the Born Free Foundation and other animal protection organisations that the knowledge of how to meet the needs of wild animals kept as pets is frequently lacking, and it is often not possible to meet these needs in a domestic environment. It is important to remember that whilst there is a relatively thorough and comprehensive understanding of the health of more commonly kept domestic animals; even then knowledge is incomplete, and animals often suffer as a result.

It is currently legal to keep any species of animal as a companion (henceforth "pet") in Great Britain, provided that the requirements of national and international wildlife laws, and legislation relating to

animal welfare and public protection, are met.

There are various pieces of primary legislation that relate to the keeping of animals as pets in the UK; The Animal Welfare Act 2006² in England and Wales, and the Animal Health and Welfare (Scotland) Act 2006,³ make it an offence to cause unnecessary suffering to a protected vertebrate animal and mandate a duty of care to meet the welfare needs of protected animals to the extent required by good practice (s. 9(1)); The Wildlife and Countryside Act 1981⁴ protects free-living native wild animals, plants and the countryside; and the Dangerous Wild Animals Act 1976⁵ which aims to protect the public from dangers posed by the private keeping of any wild animal belonging to species categorised as "dangerous", as outlined in its Schedules.

While the Control of Trade in Endangered Species Regulations (COTES)⁶ implementing the EU Wildlife Trade Regulations (EC) 338/97⁷ aim to ensure that trade in wild animals does not threaten the

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¹ Defined in s.21 of the Zoo Licensing Act 1981 as: "Animals not normally domesticated in Great Britain".

² Animal Welfare Act 2006. Available at <http://www.legislation.gov.uk/ukpga/2006/45/contents>

³ Animal Health and Welfare (Scotland) Act 2006. Available online at <http://www.legislation.gov.uk/asp/2006/11/contents>

⁴ Wildlife and Countryside Act 1981. Available at <http://www.legislation.gov.uk/ukpga/1981/69>

⁵ Dangerous Wild Animals 1976. Available at <http://www.legislation.gov.uk/ukpga/1976/38>

⁶ Control of Trade in Endangered Species (Enforcement) Regulations (1997) <http://www.legislation.gov.uk/uksi/1997/1372/contents/made>

⁷ European Council Regulation 338/97 (and subsequent amendments). Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31997R0338>

survival of the species, the primary legislation relating to the sale of animals as pets is the Pet Animals Act 1951.⁸ This article presents evidence of the scale of the trade in wild animals as pets in Great Britain, and the results of a survey examining the application and enforcement of the Pet Animals Act 1951 by local government authorities, with a view to assessing whether the legislation is still fit for purpose 64 years after it was enacted. It argues that, in view of the increased variety of species in trade and the increasing tendency for trade to be conducted online, there is a need for an urgent review of the legislation and improved consistency of its enforcement by local authorities.

Pet Animals Act 1951

The Pet Animals Act 1951 (“the Act”) was implemented in order to “*regulate the sale of pet animals*” in pet shops (as defined in s.7(1) of the Act) in England, Scotland and Wales by local authorities. The Act makes it an offence to carry out a business of selling animals as pets without a

licence. The local authority may inspect the pet shop - although the frequency of inspections is not specified within the Act - and must be satisfied that basic provisions outlined in s.1(3) which include “*suitable accommodation*” and the adequate supply of “*suitable food and drink*” are met. The local authority may attach conditions to the licence and may refuse a licence if the terms or conditions are not complied with. S.2 of the Act makes it an offence to “*sell animals as pets in any part of a street, road or public place, or at a stall*”.

Enforcement of the Act is the responsibility of local authorities, namely “*the council of any county district, the council of a borough or the Common Council of the City of London and in Scotland means a council constituted under section 2 of the Local Government etc (Scotland Act) 1994*”.⁹ Departments responsible for pet shop licensing may differ between local authorities. Depending on the structure and resources of the local authority, responsibility for dealing with applications and inspecting premises to be licensed under the Act may be designated to Environmental Health, Licensing Departments or equivalents. Designated inspectors may range from Animal Welfare Officers to Food Safety Officers.¹⁰

Section 1.3 of the Act includes provision for the Local Authority to attach conditions to the licence in order to ensure that the basic provisions outlined in s.1(3) are met.

Departments responsible for pet shop licensing may differ between local authorities

As part of a working group, in 1998 the Local Government Association produced model standards for pet shop licence conditions, which supplements the Act with recommendations for basic minimum standards.¹¹ The model conditions were revised by the Chartered Institute of Environmental Health (CIEH) in 2013 with the aim of encouraging conditions to be attached to pet shop licences and to try to promote consistency across local authorities.¹² The conditions are not a statutory requirement and therefore do not have to be enforced. The Act gives local authorities the power to attach any appropriate conditions, which includes a schedule listing the animals the pet shop is permitted to keep.¹³

The model conditions have been criticised for being too broad to represent the range of animal species for sale in licensed pet shops and for not providing adequately for the welfare of the animals.¹⁴ In some cases it has also been suggested that guidance on certain husbandry conditions might even contravene the Wildlife and Countryside Act 1981.¹⁵ Model conditions may not have direct statutory implications, but if not complied with, they can be used as evidence of a lack of compliance with legislation.

It is currently legal to keep any species of animal as a companion (henceforth “pet”) in Great Britain

⁸ Pet Animals Act 1951. Available at <http://www.legislation.gov.uk/ukpga/Geo6/14-15/35>

⁹ Pet Animals Act 1951. Available online at <http://www.legislation.gov.uk/ukpga/Geo6/14-15/35>

¹⁰ Ornamental Aquatic Trade Association (2014). Freedom of Information Request on Pet Shop Licensing.

¹¹ Local Government Association (1998). model standards for pet shop licence conditions.

¹² Chartered Institute of Environmental Health (2013) Model Conditions for Pet Vending Licensing.

¹³ Local Government Association. Personal Communication, 12th March 2015.

¹⁴ Warwick, C, Jessop, M, Steedman, C, Toland, E, Arena, PC, Glendell, G & Smith, K (2014) Model Conditions for Pet Vending Licensing, 2013. Chartered Institute for Environmental Health, 32pp. AWSELVA Journal 18(1): 3-7

¹⁵ Warwick, C, Jessop, M, Steedman, C, Toland, E, Arena, PC, Glendell, G & Smith, K (2014) Model Conditions for Pet Vending Licensing, 2013. Chartered Institute for Environmental Health, 32pp. AWSELVA Journal 18(1): 3-7

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Survey of pet shops licensed under the Pet Animals Act 1951

In April 2014, the Born Free Foundation sent a request for information by email to 377 local authorities in Great Britain (323 England, 30 Scotland and 24 Wales). The request was made under the Freedom of Information Act 2000¹⁶ and Freedom of Information (Scotland) Act 2002¹⁷ and asked for details of all premises licensed under the Act within the local authority's constituency. Each authority was asked to provide the name and address of each licensed premises and to identify which, if any, of the pet shops were licensed to sell non-domesticated species. Local authorities were also asked to return a copy of the list of non-domesticated mammal, bird, reptile and amphibian species that pet shops are licensed to sell.

Responses were received from 98.7% of the 377 local authorities (319 in England, 31 in Scotland and 22 in Wales). A total of 2,924 premises were reported as licensed under the Act. 57% of these premises were reported as selling one or more non-domesticated species. Animals listed on licences included: crocodylians, venomous snakes, venomous lizards, meerkats and primates, and included species listed in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)¹⁸ and the associated EU Wildlife Trade Regulations. Of significant concern is the range of species available from high street pet shops. The survey identified a total of 262 non-

domesticated animals to species level (41 amphibian, 25 bird, 28 mammal and 168 reptile). Only 2% of local authorities provided the scientific binomial (the Latin name) for any of the species that shops were licensed to sell. In many cases, it was difficult to identify the exact species of animal on the basis of the information provided by the local authority. For example, for 30% of the 1,229 pet shops selling reptiles no further information on the genus or species of reptile being offered for sale was provided.

The survey revealed that, on average, local authorities each licence 8 pet shops, although nearly 10% of the local authorities were responsible for 15 or more pet shops, and one reported 40.

The survey highlighted a number of concerns regarding the application of the Act by local authorities.

It was apparent that many local authorities did not have specific animal-related knowledge and were unable to identify non-domesticated or wild animals, despite being provided with guidance. Of the 38 local authorities that stated none of the pet shops they licensed sold wild species, 65% of these were later identified as licensing a pet shop that sold one or more wild species. In one specific case, the local authority

stated that none of the pet shops in their constituency sold wild animals, yet it licensed a pet shop that sold various venomous snakes. Some local authorities showed a basic lack of animal-related knowledge including identifying tortoises as amphibians or fish. These inaccuracies were not only found in responses prepared by Freedom of Information Officers or equivalents, but in some cases also appeared on copies of the official pet shop licence schedule.

It has been suggested that more than 3,500 species and subspecies of reptile and amphibians have been legally traded in the UK over the past ten years.¹⁹ Local authorities lack the expertise to assess whether the complex social, physical and behavioural needs of each individual species are being met.

Online trade in wild animals as pets
An investigation into the online trade in wild animals was undertaken recently by the Blue Cross and the Born Free Foundation. Its aim was to try and get a better understanding of what animals were available to buy

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¹⁶Freedom of Information Act 2000. Available online at <http://www.legislation.gov.uk/ukpga/2000/36/introduction?view=extent>

¹⁷Freedom of Information (Scotland) Act 2002. Available online at <http://www.legislation.gov.uk/asp/2002/13/contents>

¹⁸Appendices I, II and III. Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Available online at <https://www.cites.org/eng/app/appendices.php> (accessed on 7/12/2015)

¹⁹Reptile and Exotic Pet Trade Association (2014) Overview of the reptile trade in the UK. Available online at [http://www.repta.org/Overview-of-the-reptile-trade-\(PDF\)-2014.pdf](http://www.repta.org/Overview-of-the-reptile-trade-(PDF)-2014.pdf)

online, identify problems with the sale of wild animals over the internet, and assess whether the Act is being applied to online trade. When the Act was implemented in the 1950s, the sale of animals over the internet could not have been envisaged and so it stands to reason that no specific mention of online sales was included. Despite this, the Act is clear that all businesses selling animals as pets require a licence and the Act therefore applies to those businesses selling pets online. This was confirmed in a response to an enquiry by the Environment, Food and Rural Affairs Select Committee into the keeping of primates as pets in 2014, in which the Government stated that online businesses ‘*must have premises where the animals are held and therefore should be licensed and subject to inspection*’.²⁰

A sample of six online classified ad sites were examined over a period of three months between August – October 2014. It was found that, at any one moment across these six sites alone, there may be as many as 25,000 adverts offering wild animals for sale.

A random sample of 1,796 unique adverts identified as selling a wild animal were analysed during the study. The analysis revealed at least 125 different types (species, hybrids etc) of wild animal (53 types of reptiles, 37 types of wild bird, 28 types of wild mammal and seven types of amphibians) being advertised for purchase online.

Similar difficulties arose in this investigation as in the survey of licensed pet shops. In their online

advertisements, sellers often provided insufficient information to enable identification of the species of animal for sale. For example, 13 adverts offered ‘various’ reptiles and birds without any further species information.

One seller based outside of the UK was advertising chameleons for sale and collection from a pet market in the Netherlands. The sale of animals at markets (which encompasses pet markets) is prohibited by s.2 of the Act in Great Britain; however there is nothing to stop a buyer from importing an animal from pet markets in other EU countries.

Local authorities reported 89 private addresses licensed under the Act in England, Scotland and Wales. Even if each of these premises was selling wild animals, it is highly unlikely they would account for the vast numbers wild animals advertised for sale online. It therefore seems likely that the majority of online sellers are not licensed under the Act.

Regular online sellers are likely to be invisible to local authorities who, with limited resources, are unable to monitor and inspect such ‘businesses’.

Discussion

The survey of licensed pet shops represents an up-to-date review of the scale of the sale of non-domesticated species in licensed pet shops in Great Britain. The results show that wild animals are sold on a large scale in pet shops across Britain. Information on the range of species offered for sale is at best only partial,

highlighting the lack of expertise available to local authorities, and the urgent need for greater specificity on licence Schedules and within the local authority to reflect the species a pet shop is licensed to keep. The results also suggest that the Act fails to protect animals being sold as local authorities do not have the knowledge or resources to enforce the Act correctly, particularly in light of the range of species covered.

If local authorities are responsible for the implementation of the Act, it is important that licensing officers have access to the necessary training in order to enable them to fulfil their obligations under the Act. These include inspections of facilities to ensure they meet the requirements set out in the pet shop licence conditions, and the ability to assess whether the seller is capable of meeting the animal welfare needs of the species they are selling.

Licensed pet shops should be required to provide the local authority with a species-specific list of animals they sell. Online sellers should, at the very least, provide the common name for the species advertised to protect the

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²⁰Primates as pets: Government response to the Committee’s Eleventh Report of Session 2013-2014 – Environment, Food and Rural Affairs Committee (2014). Available online at <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmenvfru/656/656.pdf>

“wild animals are being traded in large numbers and there is evidence that online pet sellers are operating outside of the legislation”

criteria that must be met in order for premises to be licensed under the Act. Our research has highlighted a lack of knowledge and strongly suggests that some businesses are operating in contravention of the Act. The legislation is clearly failing to deliver its aim of regulating the sale of pets, both in pet shops and online.

buyer and ensure they are able to provide a level of welfare of the species for sale. All advertisers of animals for sale should be required to provide details of any permits or licenses in their advertising, in order to demonstrate that the requirements of international and national legislation in relation to dangerous or endangered species has been complied with, and that the animals advertised were legally obtained.

Finally licensed pet shops should display their licence with the conditions and schedule as is demanded by s.4(8) of the Zoo Licensing Act 1981.²¹ This should also apply to online sellers.

The investigation into the online trade in wild animals provides further evidence that wild animals are being traded in large numbers and there is evidence that online pet sellers are operating outside of the legislation and associated licensing requirements.

The recent research presented in this article highlights the urgent need for a review of the Pet Animals Act 1951. This Act fails to reflect the large and increasing scale of trade in wild animals through licensed pet shops and over the Internet. Greater clarity is also needed in relation to the

²¹The Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002. Available online at <http://www.legislation.gov.uk/ukpga/1981/37>