

30 June 2004

CONSULTATION BY SCOTTISH EXECUTIVE ON
PROPOSALS TO REVISE EXISTING ANIMAL WELFARE LEGISLATION

COMMENTS BY ADVOCATES FOR ANIMALS

Advocates For Animals warmly welcomes the proposal to enact a new Animal Welfare Bill. We hope this will result in considerably strengthened animal welfare legislation. Our detailed comments are as follows.

Definition of “Animal”

In general, we welcome the definition proposed in the Consultation Document. We are, however extremely concerned about the possibility, mentioned at a meeting with SEERAD, that crustaceans may be removed from the definition. Advocates is firmly opposed to this as there is strong scientific evidence that crustaceans are capable of feeling pain. Lobsters have a chain of nerve centres all along the mid-line from head to tail. Crabs have two main nerve centres at the middle front and rear.

One clear piece of evidence that there is sensibility in crustaceans is the fact that a humane stun/kill device has been developed for crustaceans by scientists at the University of Bristol and the Silsoe Research Institute. The development of this device has been partially funded by the Universities' Fund for Animal Welfare and the Humane Slaughter Association. The researchers involved in developing a humane stun/kill device were clearly proceeding on the basis that there are proper indices for sensibility in crustaceans otherwise there would be no need for a humane stun/kill device.

Moreover, the existing legislation, the 1912 Act, defines “captive animal” as including any animal “of whatsoever kind or species, and whether a quadruped or not”. This arguably means that crustaceans are already included in the definition of “animal” and thus it would represent a weakening of the law to now remove them from that definition.

An Obligation to Ensure Good Welfare

Advocates warmly welcomes the proposal to place on anyone responsible for animals a duty to secure and promote their welfare. This would ensure that animals' physiological and behavioural needs were met.

We wish to stress, however, that it is essential, when enacting the new positive duty to promote welfare, to also retain the existing prohibitions against cruelty and against causing unnecessary suffering, unnecessary pain or unnecessary distress; "suffering" is the word used in the 1912 Act and "pain" and "distress" in the Agriculture (Miscellaneous Provisions) Act 1968.

Zoos

Advocates believes that the Zoo Licensing Act (ZLA) 1981 needs to be strengthened in the following ways:

- (a) The recently introduced requirement that a zoo must be involved in conservation should be made more specific. In particular, zoos should be required to be part of a captive breeding programme that aims to save endangered species and re-introduce them to the wild. The programme should be one of *in situ* conservation as *ex situ* conservation rarely works. *In situ* conservation involves endangered species from the part of the world in which the zoo is situated; this means that the climate, etc will be appropriate for the species involved and that it will be practicable to re-introduce the animals to the wild.
- (b) The Bill should specify, in a Schedule, those species which are prohibited from being kept in a zoo on the ground that it is not possible to provide satisfactory welfare for that species in a zoo environment. Moreover, the Bill should give the Minister the power from time to time to add further species to the Schedule to allow for new scientific evidence that indicates that satisfactory welfare for the species in question cannot be provided in a zoo environment.
- (c) The ZLA defines a zoo as an establishment where wild animals are kept for exhibition and then defines "wild animals" as "animals not normally domesticated in Great Britain". In some cases doubts have arisen as to whether a particular animal is or is not "normally domesticated in Great Britain". The new Bill should empower the Minister to compile a list of those animals which are normally domesticated in Great Britain and further give him the power to amend that list from time to time.
- (d) Problems have arisen when a local authority has judged that a particular establishment does not require a zoo licence on the ground

that it does not keep any wild animals. The new Bill should, where a local authority has erroneously concluded that an establishment does not need a licence, give the Minister the power to direct the local authority that a particular zoo does fall within the category of establishments which require a ZLA licence.

- (e) Under Section 9 of the ZLA, the Secretary of State specifies standards of modern zoo practice and issues a list of veterinary experts after consultation with certain organisations and persons. The new Bill should require the Secretary of State to include among those whom he or she consults representatives of responsible NGOs as at present the majority of those consulted have strong connections with the zoo industry and as such their advice is arguably not properly independent.
- (f) Under the ZLA zoos do not have to be inspected every year. Advocates believes that the new Bill should require zoos to be inspected annually as welfare conditions at any establishment can deteriorate rapidly and animals may be left in unacceptable welfare conditions for long periods if there are gaps of several years between inspections.
- (g) The Scottish Executive should be required to compile a centralised database of zoos to include the date when the licence was issued and the date and outcome of inspections.

Dangerous Wild Animals in Captivity

Advocates supports the proposal in the first indent of paragraph 18 of the Consultation Document that certain specific species should be added to the Schedule to the Dangerous Wild Animals Act 1976 (DWAA). In addition, we believe that constrictor snakes, for example pythons and boas, should be added to the Schedule.

We are opposed to the proposal to remove certain primates and farmed ostriches and wild boar from the Schedule to the Act. The Executive's Consultation Document indicates that farmed ostriches and wild boar are subject to separate controls applying to domesticated farm stock. In our view this is not a reason for removing them from the DWAA. There is nothing in farm animal legislation that protects either the public or the animals' welfare from the 'dangerous wild animal' viewpoint nor have any species-specific regulations in respect of ostriches or wild boar been made under the Agriculture (Miscellaneous Provisions) Act 1968. Accordingly, we believe that ostriches and wild boar should continue to fall within the DWAA.

The Act is primarily directed at protecting the public. The new Bill should make it clear that its objective is also to safeguard the welfare of dangerous wild animals kept in captivity.

Advocates welcomes the Consultation Document's proposal to introduce a provision requiring local authorities to have regard to guidance issued by the

Minister. Indeed, we believe that it would be preferable for the Minister to issue not guidance, but rather standards of modern practice, as is done under Section 9 of the Zoo Licensing Act.

Advocates is opposed to the proposal to extend the validity of licences from one year to 48 months and to the proposal that inspections would only be required every two years. In our view it is essential that the conditions in which dangerous wild animals are kept are inspected once a year.

We welcome the proposal to prohibit vendors from selling controlled animals to an unlicensed keeper.

We are apprehensive about the proposal to require local authorities to issue licences unless there are genuine reasons not to do so. At the least, we believe that it should be made clear that the genuine reasons for not doing so include (i) welfare reasons and (ii) the belief that certain species cannot be kept as captive animals in a way which is consistent with good welfare. Indeed, we believe the onus should be on local authorities not to issue a licence unless they are confident that the keeper knows how to properly care for the animal without putting the public or the animal at risk.

We support the proposal to increase powers of entry to allow local authorities to enter premises where they have good reason to believe animals are being kept without a licence.

Keeping of Exotic Animals as Pets

Advocates believes that the keeping of many species of exotic animals should be prohibited as the conditions in which they are kept as pets are inevitably very far removed from their natural environment and accordingly it is very difficult properly to provide for their welfare when they are kept as pets. The Bill should set out in a Schedule those species or kinds of exotic animals the keeping of which as pets is prohibited on welfare grounds. The Bill could also give the Minister the power from time to time to add certain species or kinds of animals to the Schedule.

If the Executive is not prepared to take the above approach, we at the least urge it to address a gap in the current law. The *selling* by pet shops of exotic animals as pets is regulated by the Pet Animals Act 1951. The *keeping* of dangerous wild animals as pets is regulated by the Dangerous Wild Animals Act 1976. However, there are no specific legislative provisions regulating the *keeping* of non-dangerous exotic animals as pets, apart from the broad provisions of the 1912 Act.

Advocates believes that it is unacceptable for there to be no detailed controls on the keeping of non-dangerous exotic animals as pets as in the case of many species it is difficult, if not impossible, properly to cater for their welfare when they are kept as pets. We urge that such animals should be put on the same legislative footing as dangerous wild animals, ie that the keeping of a

non-dangerous exotic animal as a pet should require a licence to which welfare conditions can be attached by the local authority.

We also believe that there should be a prohibition on the keeping of wild-caught animals to stop animals being captured and brought to Britain for the pet trade. As the new RSPCA report *Handle With Care* states, many wild-caught animals die en route to the UK or when confined in a domestic environment which is nothing like their natural habitat.

Licensing Regimes

At present a wide range of activities, such as zoos, pet shops, the keeping of dangerous wild animals, riding establishments, boarding establishments and dog-breeding establishments, have to be licensed by the local authority. The new Bill may require the licensing of certain additional activities. However, provisions regarding matters such as rights of entry and inspections vary considerably as between different pieces of legislation. Advocates believes that the following provisions should be put in place for all animal licensing regimes:

- There should be a clear power of entry for local authorities or the police enabling them to enter any unlicensed premises where they have a reasonable belief that an activity requiring a licence is being carried out.
- In the case of each separate licensing regime, the Minister should be empowered, after consultation with appropriate independent expert bodies, to issue 'standards of modern practice' in the field in question. Such centrally produced standards, akin to those provided under the Zoo Licensing Act, would benefit local authorities who cannot each be expected to have the expert knowledge needed to draw up standards in a large range of fields. Local authorities should be required to attach those standards as conditions to any licence that they issued. Alternatively, the Bill could provide that the Minister's standards of modern practice apply to any licensed establishment carrying out the activity in question, ie the standards would apply directly to licensed establishments rather than through the mechanism of being attached as conditions to the licence. The local authority would still be free to add additional conditions which it believed to be necessary or expedient.
- All licensed establishments should be inspected annually as a great deal can go wrong during the course of a year; even more can go wrong in a period longer than a year.
- Inspections should be carried out by independent persons. This means that a veterinary surgeon or other inspector could not conduct an inspection in respect of an establishment owned or run by a client of his/hers.

- The Minister should draw up a list, after consultation with such bodies or persons as he or she thinks fit, of those veterinary surgeons or other inspectors who have the necessary expertise to carry out inspections in each particular field, ie there would be one list of inspectors authorised to carry out inspections of pet shops and another list of those authorised to carry out inspections of, for example, riding establishments, and so on. At the moment there is a very real problem that inspectors may not have the knowledge and expertise required to properly carry out the inspection of particular species. For example, a new RSPCA survey has revealed that many vets in England and Wales do not have the knowledge and experience needed to treat exotic animals.
- A proportion of inspections should be carried out on an unannounced basis.
- The Bill should require local authority officials to be properly trained as regards each activity in respect of which they carry out inspections or otherwise monitor compliance with the law.
- The Scottish Executive should be required to compile a centralised database of licensed establishments to include the date when the licence was issued and the date and outcome of inspections.

Pet Shops

In 2003 Advocates produced a detailed report on pet shops in which we made a number of detailed recommendations for reform of pet shop legislation. Our recommendations are as follows:

1. The bringing forward of new legislation – to replace the outdated Pet Animals Act 1951 – containing the following:
 - Making it an offence to sell an animal to a person under 17 years old, whether from a pet shop or elsewhere.
 - Granting inspectors the power of entry to non-licensed premises if suspected of requiring a Pet Animals licence.
 - Expanding the licensing requirements to cover all forms of pet sales including Internet sales.
 - Prohibiting the sale of pets from temporary premises or at day events, regardless of whether or not they are public events.

- Obliging pet shops to take back any animal within one week of purchase.
 - Requiring the Scottish Executive to be responsible for:
 - compiling a centralised list of pet shops to include the date of when the licence was issued and the date and outcome of inspections;
 - compiling a compulsory 'Standards of Modern Pet Shop Practice' ; these Standards would be akin to those produced by the Secretary of State under the Zoo Licensing Act and would be extremely helpful as many local authorities do not have the expertise to know all the conditions that should be attached to the licence particularly as many pet shops sell a wide range of animals, including exotic animals;
 - establishing and administering as necessary 'Pet Animals Advisory Groups' to, for example, draft the 'Standards of Modern Pet Shop Practice';
 - compiling a list of specialist vets competent to carry out inspections;
 - administering a training and accreditation system for pet shop inspectors;
 - appraising local authorities' implementation of the regulations;
 - banning the sale of any particular type of animals known to be unsuitable for pet keeping.
 - Making compulsory the inclusion of all the conditions contained in the 'Standards of Modern Pet Shop Practice' in all pet licence conditions issued by local authorities.
 - Requiring pet shops to provide written information about zoonoses to all prospective buyers of pets.
 - Removing the current exemption that allows a pet shop to keep dangerous wild animals without the need for a Dangerous Wild Animal licence.
 - Stating explicitly that all animals kept on a licensed establishment, regardless of whether they are for sale or not, are governed by the licence.
2. As indicated earlier, the new Bill should empower the Minister to issue 'Standards of Modern Pet Shop Practice' , which should include the following compulsory licence conditions:
- Compulsory registration of all commercial transactions of pet animals.
 - Compulsory distribution of standard species-specific care sheets to all pet buyers.

- Compulsory use of stand-off barriers or other methods to prevent customers physically interacting with animals in the pet shop.
- Prohibiting the keeping of animals under a pet shop licence at premises not included in the licence (eg licensee's home).
- Prohibiting the boarding of animals unless specifically authorised in the licence conditions.
- Prohibiting the sale of a pet without a reasonable guarantee that the purchaser will provide the minimum housing conditions and food and liquid needed. This can be done. A new RSPCA report states that some pet shops do ask rigorous questions about the prospective pet owner's experience before selling the individual a pet. They give as an example one Hertfordshire-based pet shop, where the staff insists that anyone taking on an animal demonstrates that they can provide for the animal's needs. The manager said: "We conduct competency tests to assess knowledge before we are happy somebody is knowledgeable enough to leave our shop with an animal. We ask about how big they think the animal gets, its behaviour, the captive environment it will need, temperatures, lighting, humidity and nutrition. If they don't get the answers right we will either coach them until they have the knowledge or suggest further reading until we are satisfied that they are properly aware of the animal's requirements." If this level of care can be taken by one pet shop, it is not unreasonable to ask that pet shops as a whole take rigorous steps to ensure that prospective buyers are in a position to properly care for the animal's welfare.
- Requiring all pet shop assistants, including temporary staff, to provide proof of appropriate qualifications and expertise regarding pet shop practice and pet care.
- Prohibiting the sale of animals rescued by animal protection organisations.
- Prohibiting the trade of a particular type of pet if the local authority has not authorised the keeping of such a pet at the licensed premises.
- Prohibiting the advertising of unlicensed animal traders/breeders at the licensed premises.
- Making compulsory the display of the current pet shop licence, including the licence conditions and their schedules, in a prominent, easy accessible place in the public area of the licensed premises.

- Making it a requirement that, when issuing licences, the local authority includes specific minimum enclosure area and volume allowances for all types of animals kept, assuming they may reach adulthood whilst on the licensed premises.

3. Tougher legislation against the illegal pet trade by:

- Making the registration of all exotic pets compulsory.
- Making the marking of all captive exotic animals compulsory.
- Increasing the efficiency of customs controls.
- Making the punishment for illegally trading in live exotic animals much more severe.

Pet Fairs

Advocates believe that a prohibition should be placed on the sale of pets from temporary premises or at day or other short-term events, regardless of whether or not they are public events. It is simply not possible to maintain and enforce suitable standards of welfare at temporary sales in a makeshift environment.

Moreover, welfare can be compromised by the sometimes lengthy journeys undertaken by the animals to and from the pet fair. Thus, for example, animals may be transported for the better part of a day to the fair, sometimes in totally inappropriate transport conditions, then they spend a day or two at the fair and immediately afterwards are transported again back to where they are normally kept; all this can impose distress and suffering on them. Moreover, little is known about the temporary accommodation used by non pet shop-owning dealers to house animals or birds between pet fairs.

Indeed we believe that the 1983 amendment to the Pet Animals Act 1951 already prohibits pet fairs. Accordingly, in our view it would be a retrograde step if legislation were to now permit, albeit subject to licensing, an activity that has been prohibited on welfare grounds since 1983.

The 1983 amendment to section 2 of the 1951 Act reads: "If any person carries on a business of selling animals as pets in any part of a street or public place, or at a stall or barrow in a market, he shall be guilty of an offence". This amendment was enacted to prevent the high level of suffering associated with the sale of animals in a makeshift environment. The Pet Animals Act does not define a public place, but other statutes do. If one looks at the Licensing Act 1902, the Indecent Displays (Controls) Act 1981 and the Environmental Protection Act 1990, one sees that a public place tends to be defined as any place to which the public have, or are permitted to have, access whether on payment or otherwise. This definition of public place would include many pet fairs.

As indicated above, our preferred position is that pet fairs should be prohibited. If a prohibition is not enacted, then we agree with the Consultation Document's proposals that local authorities should license the organisation responsible for organising the event and therefore place these events on a similar legislative footing as pet shops, to try and ensure that similar standards of welfare apply.

Circuses

Advocates believes that the use of all animals (both wild and domestic) in circuses should be prohibited. There is no good reason to continue to permit the use of animals in ways which almost inevitably lead to poor welfare for an entertainment which is nowadays viewed by the majority of the public as outmoded and unnecessary.

Circus animals have to endure long periods of confinement for hours, sometimes even days, often in small cages. Circus elephants spend much of their time chained by their legs, barely able to move. Circus animals can display stereotypical behaviours. Animals will pace up and down, chew the cage bars, sway from side to side or even walk in circles. Methods used to train animals are questionable, with trainers often using sticks, whips or goads. There is no educational value in seeing these once proud animals reduced to performing degrading tricks in an unnatural environment.

Moreover, prohibition on the use of animals in circuses would not have any significant detrimental impact on circuses. Most circuses make relatively little use of animals and it would not be difficult for them over a period of time to switch all their acts away from animals. We would add that a prohibition on the use of animals in circuses would have no detrimental impact on circus businesses in Scotland as, to the best of our knowledge, there are no Scottish-based circuses that use animals, merely one that visits Scotland from England occasionally.

We believe that travelling equestrian shows should also be prohibited.

Shoeing of Horses

Couping should only be permitted when sanctioned for medical reasons by a veterinary surgeon. Advocates believes that "couping" for cosmetic reasons should be prohibited as uneven shoeing can cause injury to the ligaments, tendons and joints.

Couping can cause both short and long term medical problems. The British Equine Veterinary Association has stated that couping should be discouraged as it may cause long term orthopaedic disorders.

The Laminitis Clinic has detailed the problems that are likely to arise from couping. It states: "The short term consequences of the technique are likely to induce lameness from the limb imbalance, interference injuries and puncture wounds to the unprotected medial heel quarters and heels. The

long term use of coupling will predispose the horse to: lameness due to chronic joint pain from strain on the medial collateral distal joint ligaments; lameness due to degenerative joint disease in all joints including and distal to the hock; lameness due to foot imbalance, including laminar tearing, sheared heels, rotational founder and recurrent horn infections; lameness due to back injuries as the animal cannot work efficiently with hind limbs made to be artificially valgus.”

Enforcement

Enforcement of much animal welfare legislation lies with the local authorities. Due to resource constraints, some local authorities give animal welfare enforcement a relatively low priority. This leads to inadequate enforcement in some areas and, taking Scotland as a whole, to inconsistent enforcement. There is a strong need for a uniform approach across all enforcement bodies.

There is also a strong need for proper training for enforcement officers in both the relevant legislation and the relevant science. Shared training courses should be introduced for all statutory enforcement agencies.

The reason that some local authorities give a relatively low priority to animal welfare enforcement is that this is just one of many enforcement duties given to local authorities by statute. Accordingly, there is an argument in favour of establishing a National Animal Welfare Enforcement body. This would have the advantage of having enforcement officials whose full-time responsibility was animal welfare. Their animal welfare responsibilities would not be competing with other priorities. Moreover, they would have the time to develop a real expertise in this field. The counter-argument to a national body is that it would not have the local knowledge enjoyed by local authorities. This defect could be addressed by ensuring that officials employed by the national body spent most of their time, where practicable, in a particular region, so building up local knowledge.

An alternative to a national body would be for two or three local authorities to organise welfare enforcement on a joint basis, which would allow them to employ one or more enforcement officers whose sole responsibility was animal welfare enforcement. This would have the advantage of allowing officers to become expert in welfare matters, whilst still retaining local knowledge and familiarity. We believe that this is already done by some local authorities and the Scottish Executive could encourage all local authorities (except those which are large enough to on their own have one or more full-time officers) to take a similar approach.

Statutory Improvement Notices. At present the legislation relating to farms and transport allows the appropriate enforcement bodies to serve a statutory improvement notice. This extremely helpful power should be extended to all

cruelty and welfare legislation allowing the relevant enforcement body to serve a statutory improvement notice in appropriate cases.

Disqualification Orders. At present there is a substantial loophole to banning orders which enables those subject to such an order to evade them and continue to keep animals while asserting that it is a spouse or relative who actually has custody of the animal. The problem stems from the fact that the legislation only allows the Court to disqualify someone from “having custody” of an animal. It is this that makes it possible for someone subject to a banning order to continue to keep or otherwise be closely involved with animals while claiming that it is someone else who has “custody” of them.

This loophole should be blocked in such a way that a person who is subject to a banning order is genuinely stopped:

- from in any way being involved in the keeping of or caring for animals; the intention here is to ensure that someone who has been convicted of cruelty and banned from keeping animals cannot be in a position where they could again be cruel to animals. The Court should have the power not just to disqualify someone from “having custody” of an animal, but also from being in charge of or responsible for, keeping, attending to or in any way being involved in the care of an animal.
- From in any way benefiting financially from his/her involvement in an animal.

The Courts are reluctant to make disqualification orders. However, one of the main reasons why cruelty prosecutions are brought is to obtain a disqualification order, not as a punishment, but to prevent further acts of cruelty being performed. The Courts could be encouraged to make disqualification orders by the enactment of a presumption that a disqualification order will be made when a person is convicted of cruelty, unless the Court is satisfied that there are compelling reasons to decide otherwise. This would preserve the Courts’ ultimate discretion, while nonetheless encouraging a wider use of disqualification orders.

We believe that when a disqualification order is made it should apply to all, not just some, species as a person who has been cruel to an animal/s of one species is unlikely to confine his/her behaviour to just that species.

A further problem is as follows. At present a person who breaches a disqualification order may be fined or imprisoned. The law should also allow for the immediate and permanent seizure of any animal found in the custody of a person who is subject to a disqualification order.

Greyhound Racing

The welfare problems of greyhound racing are not confined to the races themselves. Greyhound racing leads to thousands of dogs a year being put down either relatively early in their lives because they are judged not to be

good enough for racing or later in their lives when their racing career comes to an end through injury or age. Sometimes, the dogs are killed in inhumane ways.

Advocates believes that the only effective way to address these problems is to phase-out greyhound racing by law.

If there is not at this time to be a phase-out, Advocates believes that the new Bill should introduce provisions on greyhounds on the lines of those suggested in the Consultation Document. In particular, Advocates believes that:

- ❖ All greyhound racing courses should be licensed in animal welfare terms.
- ❖ A veterinary surgeon should be present at all races and all dogs should be inspected by a vet before and after each race.
- ❖ There should be a limit on the frequency the dogs can race. We believe that they should not be allowed to race more than once a week.
- ❖ Responsibility must be placed on the dog owner to ensure that the welfare of the dog is covered when its racing career is over. We believe that the Bill should require the owner to look after the dog for the rest of its life once its racing days are over. The owner should not be able to discharge this responsibility by rehoming the dog; he or she should be required to look after the dog personally. We say this because when a greyhound is rehomed it is in effect depriving another unwanted dog of a home.

The Welfare of Captive Pheasants that have been Bred for Sport Shooting

We strongly believe that captive pheasants bred for shooting should be subject to similar provisions to those in the Agriculture (Miscellaneous Provisions) Act 1968. It is unacceptable that, whereas binding regulations and a statutory code of practice can quite rightly be made in respect of poultry farmed for their meat, there is no power to make regulations and a statutory code in respect of pheasants bred for shooting.

The Consultation Document merely wants to give Ministers the power to introduce a statutory code of practice for pheasants. We believe that the Minister should also have the power to make binding regulations in respect of pheasants as he already has the power to make regulations in respect of poultry farmed for meat.

Pheasants are still in essence wild birds. However, those reared for shooting are farmed intensively. Particularly in the early weeks of life, they are kept in large groups in crowded sheds. They are then moved in two or three stages into various roofed pens and finally into release pens.

In these unsatisfactory conditions, pheasants can become aggressive (in natural conditions they are not, in general, aggressive). To control the aggression, farmers take a number of steps, including de-beaking the birds with a red-hot blade and making them wear so-called 'bits' or 'spectacles'. The bit is a plastic ring with a gap in it and is clipped into the nostril and between the beak. As a result, the birds cannot close their beaks properly. One form of spectacles (which pierce the nasal septum) is now illegal. However, regrettably another form remains lawful. Like bits, these spectacles are clipped into the nostril. This results in the birds not being able to see well enough to attack each other. It is, of course essential that the birds should not attack each other; however the proper way to achieve this is not through de-beaking or the use of bits or spectacles, but by keeping the birds in good conditions.

Advocates believes that regulations made under the new Act must lay down detailed provisions for the welfare of pheasants reared for shooting. Such regulations must start at the hatchery stage and govern the treatment of the birds within the breeding sheds, rearing pens and release enclosures. The regulations should prohibit de-beaking and the use of bits and spectacles.

Tail-docking and Mutilations

Advocates is opposed to the docking of puppies' tails except where this is necessary for therapeutic purposes, ie when a tail has been injured or become diseased and amputating, or partially amputating it, is necessary for the dog's well-being.

The British Veterinary Association has issued a Policy Statement which states that it is opposed to the docking of puppies' tails. It states that puppies suffer unnecessary pain as a result of docking and are deprived of a vital form of canine expression. It points out that chronic pain can arise from poorly-performed docking.

The Royal College of Veterinary Surgeons (RCVS) considers docking of dogs' tails to be an unjustified mutilation and unethical unless done for therapeutic or acceptable prophylactic reasons.

Some argue in favour of prophylactic docking of the tails of working dog breeds. However, in our view such prophylactic docking is not necessary and in reality in nearly all cases is being carried out for cosmetic reasons, ie to conform with certain breed standards. It is worth noting that even in those dogs of working breeds who are used as companion animals, docking continues. This strongly suggests that docking is in fact being carried out for cosmetic, not prophylactic, reasons.

Some argue that there is no scientific evidence to show that tail docking is painful. This is not the case. A briefing prepared by DEFRA's Animal Welfare Veterinary Division examined the scientific evidence and concluded that "tail docking definitely causes pain in neonatal puppies". That briefing quotes a paper by Wansborough (1996) that concluded that initial pain from the direct

injury to the nervous system caused by cutting or crushing the tail of a neonatal puppy would be intense and at a level that would not be permitted to be inflicted upon a human.

A seven-year survey conducted by the University of Edinburgh Veterinary School showed insufficient evidence of statistical significance to suggest a positive association between tail injuries and undocked tails. The briefing prepared by DEFRA's Animal Welfare Veterinary Division points out that sheepdogs – which are undocked – pursue an extremely active and physically demanding life and yet there appears to be no evidence that they suffer damaged tails despite being undocked. Moreover, the argument that certain breeds' tails should be docked is undermined by the very low incidence of dog tail injuries. Professor Sullivan of the University of Glasgow has stated that he has seen probably two or three injured tails in some 60,000-70,000 dogs over a 20-year period. It cannot be acceptable to submit thousands of dogs a year to tail-docking simply to prevent such a low incidence of tail injuries. The amount of pain and suffering caused by routine docking is completely out of proportion to the injuries that may be prevented.

In conclusion, Advocates does not accept that prophylactic tail-docking can be justified. If prophylactic docking is ever acceptable, it is where a vet believes that a specific individual dog is at risk of disease or injury which is likely to arise from the retention of the entire tail; this is the approach taken by the RCVS. The vet would have to make a judgement in respect of each individual dog. It is wholly unacceptable for a vet to judge that all dogs of a particular breed should be prophylactically docked.

Advocates also believes that there should be an end to the removal of dew-claws from dogs, except where a vet judges it to be necessary for therapeutic reasons. When dew-claws are removed, the dog should always be given an anaesthetic even when the removal is carried out before its eyes are opened.

Markets

The new Bill should require markets to be licensed. No licence should be issued unless the market satisfies the licensing authority that it reaches specified standards regarding a range of welfare factors such as the availability at all times of clean water for all animals, stocking densities that prevent overcrowding, the availability of veterinary care at all times when the market is open.

Advocates believes that licensing should be required not just for permanent markets but also for other places where animals are gathered together as part of the process of buying and selling or are bought and sold on an occasional basis, such as collection centres and dealer's premises.

Livery Stables and Yards

We believe these should be licensed in the same way as other animal boarding establishments.

Tethering of Horses

The Protection Against Cruel Tethering Act 1988 does not apply to Scotland. Advocates believes that the new Bill should apply this provision to Scotland.

Advocates believes that the prohibition against cruel tethering should be extended to all animals rather than just equines. Many species are tethered in such a way as to cause unnecessary suffering. For example, many dogs are left for long periods tied or chained in unacceptable conditions.

In addition, in our view, the offence should be extended to situations in which the animal is “likely” to be caused unnecessary suffering.

Power to Seize Animals

Advocates fully supports the proposal that local authorities be given powers, on obtaining a warrant from a Sheriff, to remove neglected animals, which are suffering or at risk of suffering, to a place of safety. We support the Scottish Executive’s intention to increase the scope of this proposed provision to cover all animals, not just agricultural animals. It is important that the need to obtain a warrant does not lead to delays in helping neglected animals.

Licensing and Training for Farmers

A licensing scheme should be introduced for farmers as this would underpin the monitoring and control of welfare standards on farms. It is anomalous that the law requires most people involved in the commercial keeping of animals to be licensed, but does not extend this requirement to farmers who keep more animals than any other commercial sector. One condition of the licence should be that on each farm there should be a nominated individual who has ultimate responsibility for welfare on that farm.

It is essential that farmers should be required to undertake training. Slaughtermen and drivers of livestock vehicles must by law be competent. There is no good reason to exclude farmers from such a requirement. The high incidence of health problems in Scotland’s sheep flock and the fact that many pig farmers resort to tail-docking to prevent tail-biting are just two examples of why proper training is needed. Once training has been completed, farmers’ competence should be assessed by an independent assessor.

An End to the Giving of Live Animals as Prizes

We believe that there should be a prohibition on giving all animals (including fish) as prizes. An animal given as a prize comes to be owned by a particular individual by chance rather than a deliberate and conscious decision by the owner. The new owner may not have the commitment, time and resources to look after the animal properly.

Use of Painful Devices in the Training of Companion Animals

Electric shock collars and spike choke collars are sometimes used to train or control dogs. They work by causing the animal pain. The sale and use of such devices should be prohibited.

Dog Licensing and Neutering

Most of the problems associated with dog control stem from the stray and unwanted dog population. Rather than killing unwanted animals, a more humane method of pet population control is a comprehensive programme of spaying and neutering animals.

Local authorities should be encouraged to introduce what are known as 'Comprehensive Animal Control Programmes'(CACP), which are operating most successfully in North America. CACPs consist of: a low-cost spay/neuter clinic; a dog licensing scheme; a vigorous public education programme; and a requirement for animals leaving dog and cat homes to be sterilised.

Advocates believes that, in order to encourage responsible dog ownership, a dog licensing scheme should be introduced. Substantial reductions in the licence fee should be offered in respect of neutered dogs and exemptions from the fee should be provided for people on low incomes

Ways need to be examined of encouraging spaying/neutering in order to reduce the numbers of stray and unwanted animals. For example, local authorities should be encouraged/empowered to run low-cost spay/neuter clinics. Moreover, dog/cat shelters should be required to sterilise and micro-chip animals leaving the shelter.

Breeding and Sale of Dogs

Advocates fully supports Christine Graham MSP's proposals for the Transportation and Sale of Puppies (Scotland) Bill. We urge the Scottish Executive to include all her proposals in its new Animal Welfare Bill. We welcome the fact that in its Consultation Document the Scottish Executive says that it wishes to regulate the trade in puppies purchased by dealers outside the UK and then resold in Scotland and elsewhere in the UK. We also welcome the Scottish Executive's statement that it wishes to ensure that companion animals sold by dealers are covered by the same welfare regulations which apply to puppies sold from licensed dog breeding establishments.

In addition to Christine Graham's proposals, we believe that there should be a prohibition on a dealer selling a dog, otherwise than to a licensed pet shop or a licensed Scottish rearing establishment, to a buyer who he/she knows or

believes intends that it should be re-sold (by him/her or any other person); this would mirror for the dealers, one of the provisions in Section 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.

The Executive's Consultation Document asks how "a dealer" should be defined. We believe that a dealer could be defined as someone who carries on the business of buying dogs for resale (whether by him/her or any other person). A person should be treated as carrying on the business of buying dogs for resale if he or she during any period of 12 months buys for resale or sells a total of four or more puppies. This thinking is based on that applied by Section 7 of the Breeding and Sale of Dogs (Welfare) Act 1999 to breeding establishments.

Breeding of other Animals, ie other than Dogs

As the Executive's Consultation Document states, the sale of dogs from breeding establishments is regulated and these establishments require to be licensed by local authorities. Advocates believes that a similar regime must be put in place for establishments breeding other animals for sale such as kittens, small mammals and birds. The largest breeding industry is that of small mammals and birds. Species such as rabbits, hamsters, gerbils, guinea-pigs, budgies, canaries and small finches are bred in very large numbers to supply the pet shop trade. The conditions under which many of these animals are bred are reported to be frequently of poor quality and, consequently, there is significant suffering.

We urge the Executive to include in the new Bill a power for the Minister to make regulations for establishments breeding any species, including the power to require them to be licensed by the local authority.

The regulation-making power should extend not only to the health and welfare of the animals kept at breeding establishments, but should also try and find some way of reducing the sheer number of animals being bred. Far too many animals (such as rabbits) are being bred for the pet trade and this is leading to a very large number of unwanted animals. Many of the animals that have to be taken in by sanctuaries are those which emanate from excessive breeding.

Animal sanctuaries

We believe that sanctuaries should be licensed. However, licensing and conditions attached to the licence should not be so burdensome as to deter someone with the necessary expertise and dedication from running a sanctuary.

Deer

Advocates believes that the new Bill should be used to make welfare amendments to strengthen the Deer (Scotland) Act 1996. In particular, we believe that the 1996 Act should be strengthened:

- to require all persons who shoot deer to be “fit and competent”
- to prevent the kind of welfare problems that arose during the cull carried out earlier this year on the Glenfeshie Estate when apparently two animals may have lain wounded for up to 15 minutes rather than being humanely killed after being wounded. The 1996 Act should be strengthened to make it an offence not to humanely kill a wounded animal immediately after it has been wounded and certainly before shooting or attempting to shoot other deer or carrying out any other activities
- the Deer (Scotland) Act 1996 prohibits (section 19) the use of a vehicle to drive deer; “vehicle” is defined not to include any aircraft. Advocates believes that “vehicle” should be defined to include helicopters
- there should be a statutory duty to consider the welfare implications of any proposed management changes which could have an adverse impact in relation to deer. One example of such a management change is the erection of fencing which may remove access to wintering ground or shelter. Another example is a change of land use which again may remove food and shelter. The statutory duty to consider welfare implications should be accompanied by a statutory code of practice.
- Section 26 of the 1996 Act, which allows occupiers to shoot deer causing serious damage should be amended to require the occupier to first obtain authorisation from the Deer Commission for Scotland
- the new Bill should encourage the use of contraceptive implants in non-pregnant hinds as a long-term method of controlling deer numbers rather than culling.

Horse-racing

As indicated earlier, until they are prohibited, we fully support the proposal that all greyhound tracks should be licensed. However, it would be anomalous if one form of animal racing were licensed and another were not licensed. Accordingly, Advocates believes that the Bill should include a power for the Minister to make regulations covering horse-racing, including the power for him to require horse-racing to be licensed.

The regulations should address health and welfare issues such as: the excessive use of whips; mutilations such as tubing in which a hole is surgically cut into a horse’s neck and a metal tube inserted; unacceptable procedures such as firing and pinfiring; injuries resulting from racing such as bone damage; the excessive times that some race horses are kept confined in stables; and the need for the industry to take greater responsibility to ensure the welfare of horses after their racing career is over.

Penalties

We believe that the maximum penalties for both fines and imprisonment should be increased substantially to reflect the gravity of many cases of cruelty to animals

Advocates for Animals