

STATES OF JERSEY

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DRAFT ANIMAL WELFARE (JERSEY) LAW 200- (P.126/2003): AMENDMENTS (P.126/2003 Amd.) – COMMENTS

**Presented to the States on 9th March 2004
by the Economic Development Committee**

STATES GREFFE

COMMENTS

Introduction

The proposed Animal Welfare (Jersey) Law was prepared in consultation with the Animal Welfare Advisory Panel. Each veterinary practice is represented on the panel, together with the J.S.P.C.A, the States Vet and other interested parties. The Law has taken 6 years to produce, having been amended many times, and the Committee conveys its thanks to the Law Draftsman, Miss Pam Staley, who has assisted throughout the process.

The draft Law seeks to be simple and not over-bureaucratic; it will repeal several Laws and the cumulative effect will result in a simplified and more cost-effective legal framework for animal welfare. The draft Law achieves its objectives of providing updated offences of animal cruelty and neglect, preventing practices which could lead to cruelty to animals and to protect the consumer seeking pet care, by introducing a licence scheme for commercial enterprises. In proposing the draft Law, the Committee is conscious of the need to be able to operate the Law within existing resources, not only because of the States' financial constraints, but also to avoid unnecessary cost being passed onto businesses being licensed. The Committee estimates that the cost of a 3-year licence will be in the region of £75 to £90.

Deputy Hill's report questions why the licensing provisions apply only to businesses dealing with specific animals. This is simply because the Law is intended to focus on those areas where there have been complaints made by members of the public and where issues of animal cruelty do arise. The Economic Development Committee see no benefit in including business sectors where there are no complaints and where there is no evidence of a problem with animal welfare. Livery stables and riding schools are a good example where animal welfare practice is satisfactory, and to include these businesses in the licensing scheme would incur additional bureaucracy and cost for business and produce no benefit. The same can be said for all categories of animals that will be brought into the licensing scheme by amendments 4, 5 and 6 and, if these are accepted by the States, they would ultimately increase financial and manpower implications, as additional resources would be required in respect of policing, inspection and licensing commitments.

Should problems of animal welfare start to arise to the extent that causes concern, then paragraph (4) of Article 1 allows the Committee to bring Regulations to the States to include additional businesses.

It should be borne in mind that Part 2 of the draft Law gives improved powers to take action in **all** cases of cruelty, unnecessary suffering, neglect or abandonment. Thus any establishment, whether licensed or not, will not escape the general powers of the Committee to take action in such cases.

The Committee is concerned by the ill-informed comments contained in Deputy Hill's report relating to the possible adverse impact that a licensing scheme may have on those businesses to be licensed. He claims "The introduction of the Welfare Law and the Animal Code will force many if not most of the smaller concerns to close because of the increasing bureaucracy and economic implications."

Animal Codes will be issued under Article 36 and are provided for guidance to help the operators of businesses. The codes set a preferred standard to be achieved and any establishment that meets the codes will receive a licence. Where an establishment does not comply with the code, a licence may still be issued, and conditions may or may not be set; this depends upon the extent to which the establishment fails to comply with the code. Members can be reassured that there is no intention whatsoever to close down businesses for non-compliance of codes or refuse a licence unless the inspector finds evidence that there are critical welfare issues. The guiding principal is to provide animals with an environment where their welfare is not at risk.

The codes can be found on the Economic Development Department website www.edd.gov.je under the service area of Jersey Agriculture, then look for Animal Welfare Codes Consultation on the menu bar on the left of the screen.

The Committee, whilst sharing Deputy F.J. Hill's concerns for animal welfare, and being aware of his intentions to introduce fairness and consistency, is minded not to unnecessarily broaden or complicate the Law and thus rejects amendments (2) to (8) of P.126/2003 Amd. on the following basis—

ARTICLE 14, PARAGRAPH (2) –

(1) *In sub-paragraph (a) for the number ‘3’ substitute the number ‘5’.*

The effect of this amendment is to increase the number of breeding female animals that can be kept without the need to apply for a licence from 3 to 5 (3 breeding females had been originally proposed as a result of public consultation).

This amendment is accepted on the basis that breeders could keep more than 3 females but only breed one or two.

(2) *For sub-paragraph (b) substitute the following paragraph–*

“(b) the provision, for reward, of accommodation for other people’s dogs, cats, horses, rabbits, guinea pigs or birds at any premises;”.

The effect of this amendment is to bring boarding facilities for horses, rabbits, guinea pigs and birds within the scope of the licensing provisions.

This amendment is not supported because the licensing of livery stables is considered unnecessary and over-bureaucratic given that livery stables in the Island are well-run and raise no concerns. The same applies to the inclusion of rabbits, guinea pigs and birds, for which boarding facilities are seldom used. (These small animals are usually cared for by family and friends.) The inclusion of these categories of animals would require additional manpower resources to operate the licensing scheme; this in turn would require the additional cost to be borne either by the States or passed onto the licensee; this may result in a disproportionate increase in the licence fee, depending on the number of additional establishments to be licensed and the cost in employing additional labour to comply with the Law.

(3) *In sub-paragraph (d) delete the words “other than a private dwelling,” in each place where they appear.*

This Article is intended to deal with petshops. The effect of this amendment is to bring private dwellings used for the purpose of selling animals within the scope of the licensing provisions.

This amendment is not supported because the intentional exclusion of private dwellings is aimed at preventing the necessity for people making the occasional sale of excess offspring from domestic pets, as it is considered that this would be over-bureaucratic and difficult to police.

(4) *After sub-paragraph (f) add the following paragraph–*

“(g) the keeping of livestock or poultry for the purpose of producing for sale, whether by the person commencing or carrying on the business or any other person, any product derived to any substantial extent, with or without process from such livestock or poultry;”.

The effect of this amendment is to bring businesses keeping livestock and poultry for food production within the scope of the licensing provisions.

This amendment is not supported because the inclusion of such units would require additional resources to assist in inspection and licensing procedures. As already stated, emphasis is placed upon addressing those areas where problems have arisen, leaving other areas free from bureaucracy and increased costs. Furthermore, dairy units are already inspected by the Jersey Dairy.

(5) *After sub-paragraph (g) add the following paragraph–*

“(h) the keeping or use of one or more dogs wholly or mainly for the purpose of protecting, for reward, another person’s premises or property;”.

The effect of this amendment is to bring businesses keeping guard dogs within the scope of the licensing provisions.

This amendment is not supported because the licensing of owners who keep one or more guard dogs is deemed unnecessary, as there has been no evidence to support such an inclusion. This again would stretch resources without justification. (This may not be the case in other jurisdictions, but from our small Island perspective this measure would be over-bureaucratic.)

(6) *After sub-paragraph (h) add the following paragraph–*

- “(i) the keeping of horses for the purpose of their being –
- (i) let out on hire for riding or for driving with a carriage, cart, trap or other means of conveyance, or
 - (ii) used, in return for reward, for instruction in riding or in driving a carriage, cart, trap or other means of conveyance;”.

The effect of this amendment is to bring livery stables, riding schools and other similar establishments within the scope of the licensing provisions.

This amendment is not supported because there is no evidence to support licensing in such cases. This is another area where licensing would be over-bureaucratic and would require additional resources. Horses are generally well cared-for in the Island.

ARTICLE 22

(7) *After paragraph (1) insert the following paragraph–*

- “(2) The Committee shall not authorize to be an inspector any person, or any officer or employee of a person, who requires or holds a licence under this Part.”

and renumber the remaining paragraphs accordingly.

The effect of this amendment is to restrict the Committee’s powers to appoint inspectors.

This amendment is not supported because the Committee considers that the inclusion of the additional paragraph might be identifying the Jersey Society for the Prevention of Cruelty to Animals (JSPCA) as a potential licensee. Whilst the Committee is able to identify a potential conflict of interest, members are assured that the JSPCA, or any other inspecting body, would not be permitted to inspect for the purposes of issuing licenses. It must be recognised that the majority of animal cruelty cases are reported to the JSPCA in the first instance and the appointment of inspectors by the Committee to carry out investigations on animal welfare issues under Part 4 of the draft Law should not be restricted.

SCHEDULE 1 –

(8) *In paragraph 1, after sub-paragraph (g) insert the following sub-paragraph –*

- “(h) the docking of a dog’s tail during the first week of life;”

and renumber the remaining sub-paragraphs accordingly.

(9) *In paragraph 2, at the end of sub-paragraph (e) add the words “following the first week of life”.*

The effect of this amendment is to permit the docking of a dog’s tail without anaesthetic during the first week of life.

This amendment is not supported because under the Veterinary Surgeons (Jersey) Law 1999, it is illegal for anyone, except a registered veterinary surgeon, to dock a dog's tail at any age. The veterinary surgeons in the Island have unanimously agreed to follow the Royal College of Veterinary Surgeons' guidelines – that the docking of dogs' tails, for cosmetic reasons, should not be carried out.