



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Welfare of Animals (Dog Breeding Establishments)
Regulations (Northern Ireland) 2013 and Dogs (Guard
Dog Kennels) Regulations (Northern Ireland) 2013:
DARD Briefing

11 December 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Trevor Clarke
Mrs Jo-Anne Dobson
Mr Chris Hazzard
Mr William Irwin
Mr Danny Kinahan
Mr Oliver McMullan

Witnesses:

Mrs Kate Davey	Department of Agriculture and Rural Development
Mr Andrew Kell	Department of Agriculture and Rural Development

The Chairperson: I welcome Kate Davey, principal officer, and Andrew Kell, deputy principal officer. You are very welcome to the Committee again. I know that this is a thorough piece of work that you have been working on for a long time. Following the briefing, there will, no doubt, be questions from members.

Mrs Kate Davey (Department of Agriculture and Rural Development): Thank you very much. Good afternoon, and thank you for giving us the opportunity to address you again on the draft dog breeding establishments regulations and the draft guard dog kennels regulations. On 3 July this year, the Department updated the Committee on the responses to the 12-week consultation on the draft regulations and the substantial changes that it made to those regulations. I do not intend to cover those issues today, but I will briefly outline the current legislative position and the purpose of the new regulations before concentrating on the Minister's position on the issues in the dog breeding establishments regulations, which we discussed with you on 20 November.

The current legislation dealing with dog breeding establishments is the Dogs (Breeding Establishments and Guard Dog Kennels) Regulations (Northern Ireland) 1983. These regulations were made under the Dogs (Northern Ireland) Order 1983, which is dogs control legislation as opposed to animal welfare legislation. The 1983 regulations set out the information that must be supplied to a council for registration of a dog breeding establishment or a guard dog kennel. They specify the conditions under which the premises must be constructed and operated. Although these regulations provide basic welfare accommodation standards, they contain no specific welfare controls for the breeding of bitches or for their pups.

The purpose of the dog breeding establishments regulations is to regulate commercial dog breeding, irrespective of whether it is a large-scale breeding establishment or a small-scale breeding establishment. The Department and the Minister see dog breeding as a legitimate business, and the size of the establishment is irrelevant. It is the conditions that the dogs and their pups are kept in that is relevant. These regulations aim to provide commercial breeders with clear minimum standards that must be met and maintained to ensure the welfare of all breeding bitches, stud dogs and pups in the establishment. The regulations also provide clear guidance for councils to enforce standards and powers for these requirements. These regulations are not intended to apply to hobby breeders who breed the odd litter of pups to maintain bloodlines or good working standards.

The main policy proposals for the dog breeding establishments regulations are the introduction of a new definition for breeding establishments with an associated licence to operate such an establishment and related licence fees; an exemption for licensed dog breeding establishments from the existing requirements for a block licence in the dogs Order; and a requirement to microchip all dogs and pups in the establishment. It also introduces conditions for a licence, including control on the age and number of litters that a bitch can breed; a requirement to microchip all pups before they are sold or transferred; a minimum age at which a pup can be sold or transferred; and written socialisation and enhancement programmes. It also includes an exemption for registered hunt clubs provided that they do not sell dogs or pups and an exemption for registered charities provided that they do not breed dogs.

I turn to the Minister's position on the issues that we discussed with this Committee on 20 November. I will take them in the order in which we initially discussed them with you. The first was the definition of a breeding establishment. In the draft regulations, one of the key elements to define a commercial breeding establishment is the number of litters that a person who owns three bitches can breed in any 12-month period. Initially, the Department had proposed two or more litters, but, taking account of the consultation comments, this had been amended to three or more. On 20 November, the Committee supported retaining the original proposal of two or more litters in a 12-month period. Subsequently, I discussed this issue with the Minister. The Minister is minded to leave this at three or more litters in any 12-month period.

Her rationale for this is twofold. First, the draft regulations are intended to regulate commercial breeding of dogs, not hobby breeders such as farmers, gun dog owners or show owners who take the odd litter from their bitch to maintain good working traits or bloodlines in their sheepdogs, gun dogs or show dogs. In addition, many of these types of dogs live in the family home as opposed to in breeding kennels. Secondly, the Minister is concerned, as are some Committee members, that small breeders would have to pay a new licence fee. Reducing the number of litters that can be bred in any 12-month period from three to two would bring more hobby breeders into the licensing system. Those licensed breeders would have to pay a licence fee of £150 a year, as that is the minimum fee that can be set to allow full cost recovery. Taking account of those two issues, the Minister is minded to leave it as three litters and not to reduce it to two.

Moving on to restriction of the size of a breeding establishment, the Minister agrees with the Committee's view that these regulations should not place any restriction on the size of a breeding establishment. As I said earlier, the size of a breeding establishment is irrelevant. The conditions that the dogs are kept in is the important thing.

We discussed the level of fee, and, although the Minister does not want to place an unnecessary burden on small breeders, she is very much restricted by the Treasury and Department of Finance and Personnel (DFP) policy and a commitment that was made to the Assembly that any work that went to councils would be on a full cost recovery basis. So, the fee is the minimum fee that can be set, and we cannot burden large breeders with some of the cost of small breeders, so, unfortunately, the Minister has no grounds to move on the fees as set out in the regulations.

Turning to spaying or neutering older bitches and dogs before rehoming, this issue created much discussion at the previous meeting, and we went back to the Minister on it. This has been discussed long and hard, and the Minister has said that although she recognises that a legal requirement to spay or neuter an older dog before rehoming may make breeders take a commercial decision to put the dog down, she would prefer that those bitches and dogs are not bred again. However, on balance, it is better that the bitches and dogs that are suitable for rehoming as family pets are rehomed as opposed to being put down because of a compulsory requirement to spay or neuter them. The Minister has, therefore, decided to remove the spaying the neutering requirement from the draft regulations.

Moving on to licensing conditions and mating, the draft regulations contain a range of conditions that must be met to comply with the dog breeding establishment licence. We discussed this issue, and one of the conditions is that a bitch should only breed one litter in 12 months. As a result of the consultation comments, we changed that to allow them to produce no more than three litters in any three-year period. However, there was concern that that could create a loophole for unscrupulous breeders to breed their bitches in consecutive heat periods, thus breeding three litters in around 18 months. To close that potential loophole, the Minister has agreed that the condition should be amended to:

"cannot give birth to more than three litters in any three-year period or be bred in consecutive heat periods."

I said to the Committee that we would look at a way of closing that loophole, and that loophole is now closed.

With regard to microchipping of pups, the Minister is in agreement with the Committee's views on 20 November that all pups, irrespective of their future destination, should be microchipped by the breeder before they are eight weeks old. That will apply to pups that will be sold as pets in Northern Ireland or any pups that are going outside of Northern Ireland. There will be a requirement to microchip them.

We discussed written socialisation and enhancement programmes. The Minister is minded to retain that requirement in the draft regulations, as it would be a very helpful tool for the inspector when they are assessing whether the welfare needs of the dogs and pups are met. Preparation of these documents in advance of applying for a breeding establishment licence should not place an onerous burden on the breeder. What we are talking about here is a one-off policy statement, stating how the breeder plans to socialise their pups or enhance and enrich the lives of their dogs. These are not statements that need to be updated regularly, nor do they need to be ticked off as having been applied with. They are one-off policy statements. The view is that they are beneficial but not a burden.

The Minister has agreed to reduce the mandatory record keeping requirements to the very minimum that a breeding establishment must hold to allow an inspector to assess compliance with the regulations. The draft regulations have been changed to reflect that. There is no requirement to hold a separate logbook for each bitch or dog. A breeder will be able to hold the records in whatever form they wish, as long as they can be reproduced in a legible manner for an inspector.

Since the draft regulations were issued to you last week, we have made a further amendment to reduce duplication in the records from these regulations. We have added a requirement to add a date of death of the dog in the new regulations, but we have streamlined the regulations since I last spoke to you on 20 November.

In respect of separate regulations for greyhounds, we discussed that in some detail on 20 November, and the Minister's position is still the same; she is not minded to introduce any separate legislation for greyhounds. The microchipping requirements for greyhounds are already clearly set out in the Dogs (Licensing and Identification) Regulations (Northern Ireland) 2012, which came into operation on 9 April. There are so few greyhound breeders who will fall within the requirements of these regulations that it would not be beneficial to make further regulation on greyhounds.

At the previous meeting, the Chair asked for clarification that registered charities, if they started to breed dogs, would have to become a registered breeding establishment. We have sought legal advice and can confirm that that is the case. If a registered charity starts to breed dogs and meets the definition of a breeding establishment, it will be required to become a licensed breeding establishment just like any other individual body. To ensure that that continues to be the position, we have changed the definition of a registered charity in the regulations to reflect the definition in the Charities Act, so they are future-proofed. Should the definition of a charity change, it will automatically be reflected in this legislation, so it is future-proofed.

Turning very quickly to the guard dog kennels element of the Dogs (Breeding Establishments and Guard Dog Kennels) Regulations 1983, these provisions work very well, and there is no need for them to be revised. That was reflected in the stakeholder comments to the consultation. However, as both the breeding establishment regulations and the guard dog requirements are included in the same piece of 1983 regulation, the full regulation must be revoked to allow us to make the breeding establishment requirements under the Welfare of Animals Act. To ensure continuity, the guard dog kennels requirements will be made as separate regulations under the Dogs Order under the negative resolution procedure, and they will reflect the elements in the current regulations without amendment.

In conclusion, the Department seeks the Committee's agreement to move the draft regulations to the next stage to the dog breeding establishment regulations, following the Executive's agreement to lay the regulations in the Assembly prior to debate under the draft affirmative procedure. The guard dog kennels regulations are not cross-cutting and do not need referral to the Executive, and we are seeking agreement to make those under the negative resolution procedure and then lay them in the Assembly.

Subject to the Committee's clearance and the Assembly's approval of the dog breeding establishment regulations, the Minister has agreed to delay the commencement of both regulations until 1 April 2013. That will allow time for dog breeders and councils to prepare for implementation of the new dog breeding establishment regulations and the licensing regime.

Dog breeders who are currently registered with the council under the 1983 regulations will only have to apply for a breeding establishment licence just before their current registration expires. In addition, any licensed condition in the regulations that require work to be done to the establishment to bring it up to the standard will not apply until six months after the date of issue of the licence.

Andrew and I are happy to discuss those issues or any other issues that members may have.

The Chairperson: OK. Thank you very much for your presentation. Just to clarify a couple of things before we move to questions, you mentioned that the Minister is minded to remove the spaying requirements.

Mrs Davey: She is minded to remove them. She feels that if she does not and makes it a compulsory requirement, most breeders will make a commercial decision and put the dog down. Although she would like to ensure that the dogs are not bred, they are probably better being rehomed. The vast majority will not be bred again as opposed to being put down. That was her rationale for it.

The Chairperson: I think that I am content enough with that change. Is she confident that the regulations will ensure that dogs will not kept for rebreeding?

Mrs Davey: A dog will not be rebred if it goes to a licensed breeder. The unfortunate problem is that there is no control on hobby breeders. If a dog was rehomed with a hobby breeder it could be bred. It was a case of balancing that against the fact that the vast majority of those dogs are likely to be rehomed as family pets and, thus, live a longer life. Although we would like to control any of them being bred, it is not possible under these regulations because we are only regulating for commercial breeding.

The Chairperson: I also had pretty strong views on the requirements for record-keeping for individual dogs. You said that that is now at the very minimum for a dog.

Mrs Davey: It is basically the very minimum. Prior to this, we had established what a good breeder should have with regard to record-keeping. We now have reduced it down to the very minimum that an inspector requires to see to allow the enforcement of these regulations and to assess compliance with them.

Mr McMullan: Thank you for your presentation. We have heard what was read out today, and, if we are in broad agreement, I propose that we move to accept it.

The Chairperson: OK. We will take that opportunity at the end of the meeting.

Mr McMullan: Yes, when everyone has had their say.

Mr Kinahan: I will second that.

Mrs Dobson: Thank you, Kate, for your presentation and for the updates since your visit here last month.

I welcome the Minister's agreement to reduce the mandatory record-keeping to the very minimum. You said that the regulations have been streamlined. Can you give us more detail on the practical changes that you are proposing? What differences will the breeders see?

Mrs Davey: Initially, we had said — this was not in the regulations but in the guidance — that there would be log books for each dog and bitch. That is not there any longer. We are down to the very basics. We have literally streamlined it.

We have also borne in mind the Chairperson's comments about the microchipping number as a good reference point. We have said that if breeders so wish, they can record a name for the dog, if there is such a name. Basically, we are down to date of birth and breed, the microchip number, if there is a health status on the dog, and the date of death. That is literally all that we require with regard to the dog.

For each bitch as she is bred, there will be the basic mating details — the identity of the sire — the date of birth of the pups, their microchip numbers and their sex, and the identity of the owners to whom the pups transfer. It is as basic as that.

Mrs Dobson: Why were the requirements not reduced earlier? Why the sudden change?

Mrs Davey: We had tried to put in a record-keeping requirement for good breeders. We have now taken the step of moving to the minimum requirements to allow the enforcement and assessment of the regulations. That is why there were two different levels.

Mrs Dobson: I have another couple of questions, but I am aware that my colleague has to go to the House to ask a question.

The Chairperson: OK.

Mr Kinahan: It was good to see the litter regulations changing from two back to three, because most of the hobby breeders, and those who look after dogs, would not be pushing that. It is the right way to go. I am keen to second the proposal, but I will be in the House for about 40 minutes for Question Time.

The Chairperson: We will not need a proposer and a seconder. I will put the question to the Committee on both pieces of legislation.

Mr Kinahan: I have to be in the Chamber.

The Chairperson: I understand.

Mrs Dobson: Have you considered involving councils in the rehoming of older dogs? Do you feel that that would be more cost-effective and that the results would have a quicker turnaround for the rehoming of dogs from breeder establishments? Could you elaborate on that?

Mrs Davey: We have not made any legal requirement to involve councils. I know that individual breeders probably work closer with charities than councils when it comes to rehoming. However, we have not put any restrictions on breeders. We looked at it from the point of view that, if we put in too many restrictions, a commercial decision could be taken to put the dog down as opposed to going down a more difficult road. A lot of breeders already have their own policies on rehoming anything that is suitable. Therefore, we have not put in controls on that.

Mrs Dobson: I would be concerned if the establishments were getting close to their maximum number. Therefore, it would be useful if councils could play a vital role in the rehoming of the older dogs.

Mrs Davey: Andrew has just reminded me that there is no maximum limit. When a breeding establishment applies for a licence, it decides on the number of dogs that it can accommodate, and it will apply for that. We are not stipulating that if an establishment applies for 40 dogs, the minute it goes over 40 it becomes an offence. Those are not built into the legislation as offences. However, if the establishment applies for 40 dogs, and the inspector assesses the premises and says that the accommodation suits around 40 or 45 dogs, and if, as the result of a complaint six weeks later, the inspector goes back and finds 100 dogs, he has the power to take action. We are not setting rigid controls on the numbers. Under this legislation, the dogs can breed only six litters; therefore, once the

dog has reached the end of its breeding life, the establishment will have to decide its policy on rehoming. We have thought about how to rehome, but if we start placing controls, people will opt for the easy way out and put the dogs down.

Mrs Dobson: I have one final question about the socialisation and enhancement programme, which is there only to make breeders seriously think and to be very helpful to the inspector. You said that the Minister was minded to retain the programme and that it is a one-off policy statement that is beneficial but not a burden. What is the benefit? Is it worth the paper that it is written on? Can you give us some detail of how inspectors could use these written programmes when they are inspecting establishments? Why is it in the legislation?

Mrs Davey: It is in the legislation because there is a requirement to allow dogs and pups to exhibit their normal behaviour. In a socialisation programme, we would expect to see just how the dogs and the pups can exhibit that normal behaviour. Breeders need to think about that in advance of applying for a licence, and they must specify how they will do it. Each breeder can do it in whatever manner they feel is fit for their premises. It will give the inspector an opportunity to say, "Yes, you have the facilities, the space and the manpower to implement what you are saying", as opposed to the inspector appearing on the day and the breeder making it up as he goes along with the inspector struggling to gain an understanding. When the programme comes in, the inspector will have an opportunity to look at it, and he will be able to assess whether it can be met when he sees the premises.

Mrs Dobson: So, it is only verbal.

Mrs Davey: No; it will be a written programme. However, we are not taking about an extensive document. They could basically write a programme on how they will do it on an A4 page, as long as how they actually look at how they enrich the lives of their pups and dogs in doing it. It is a measurement tool.

Mr Clarke: I am wondering about the definition of the breeding establishment. Your paper says that it means one or more premises within the same council area, operated by the same person. What happens if the same person had a breeding establishment in two different areas? Will there be two different licensing requirements?

Mrs Davey: Yes; it will be two licences. The licence system operates under the district council.

Mr Clarke: The other thing is that the end of that paragraph talks about three or more breeding bitches "and" one of the categories. Should that be "or"?

Mrs Davey: No, "and" is correct.

Mr Clarke: So, you can keep breeding bitches, but, unless you have bred three or more in that 12-month period, you do not need a licence?

Mrs Davey: That is right. You can have three or more breeding bitches and never breed them. So, the "and" is correct. You have to breed three or more litters in the 12-month period to qualify as a breeding establishment. The categories are all "or" thereafter, so it will be or:

"advertises 3 or more litters of puppies for sale in any 12 month period;"

Or

*"supplies 3 or more litters of puppies in any 12 month period; or
advertises a business of breeding or selling of puppies."*

Mr Clarke: So, in essence, somebody could have three breeding bitches this year and breed none but could supply two litters from someone else without needing a licence?

Mrs Davey: Yes, if they wanted to. There are numerous people who have three bitches and never breed them, yet they are currently required to register. Under these regulations, if a person has three

bitches and breeds fewer than three litters, they will not require a licence and will be considered as a hobby breeder.

Mr Clarke: They could breed two litters and supply two litters and still be outside the licence requirements?

Mrs Davey: Yes.

Mr Clarke: That way, I could supply four litters of pups in the one year.

Mrs Davey: Yes, that is true. However, we find with the trade in Northern Ireland that people actually breed as opposed to supply. We are trying to future-proof this in case the market demands change. A breeder is normally the person who is supplying.

Mr Byrne: Thanks for the presentation. I am largely supportive of what has been finalised. I very much welcome the changes that have been made in relation to breeding establishments, the number of litters and the administrative records. The whole consultation exercise with the stakeholders has been very good. Largely, I am in favour of what is being proposed.

Mr Irwin: I broadly welcome the proposals too. They are common sense, and I have no problem with them.

The Chairperson: There have been moves by the Department and the Minister, not least on the spaying requirements and reducing to the minimum the requirements for the record-keeping for the individual dogs. I understand how that could have been an administrative burden on the businesses involved, and it might have taken the focus off caring for the dog and turned it into a paperwork exercise. So, I very much welcome those changes. Some of the lobby groups that have contacted Committee members will also be very grateful for those changes.

If there are no further questions, I will put the Question. Are members content with the merits of the Welfare of Animals (Dog Breeding Establishments) Regulations (Northern Ireland) 2013 as outlined by officials?

Members indicated assent.

The Chairperson: Moving on to the next agenda item, which is an SL1 on the Dogs (Guard Dog Kennels) Regulations (Northern Ireland) 2013. Kate, will you give us a briefing on this SL1 please?

Mrs Davey: Yes, Chair. I went through it earlier, but I will quickly run through it again.

There is absolutely no change to the current guard dog regulations, but we have to revoke the entire regulations because they include the breeding establishment element. So, we are only revoking the regulation to allow us to make the breeding establishment regulations under the Welfare of Animals Act. We are remaking the element in the 1983 dogs Order unchanged through the negative resolution procedure. There was no suggestion from any stakeholders that there should be any change to the guard dog kennels regulations. A number of guard dog kennels operate in Northern Ireland, and they require regulation. Hence, we are remaking the regulations without change.

The Chairperson: I take it that you consulted with people and looked at the regulations to see whether they needed to be changed?

Mrs Davey: Of course we did. We looked at them but felt that no change was necessary. The regulations specify the conditions that the kennels should be in and the welfare of the guard dogs. We felt there was no need for change, and no one disagreed with that.

The Chairperson: If members have no questions, I will put the Question. Are members content with the merits of the Dogs (Guard Dog Kennels) Regulations (Northern Ireland) 2013 as outlined by officials?

Members indicated assent.

The Chairperson: Thank you very much members. Thank you very much, Kate and Andrew, for your presentation, which was very, very helpful.

Mrs Davey: Thank you.