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

Explanatory Document by the Department for Environment, Food and Rural Affairs

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1 Introduction

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

1.1 This Explanatory Document is laid before Parliament in accordance with section 14 of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act") together with the draft of the Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009 ("the draft Order") which the Secretary of State for Environment, Food and Rural Affairs ("the Minister") proposes to make under section 1 of that Act.

1.2 The purpose of the draft Order is to amend certain provisions of the Dangerous Wild Animals Act 1976 (the "DWAA") which relate to the granting of licences to keep wild animals. The changes made in the draft Order, and which the Minister believes will lead to a reduced burden on keepers and local authorities (pertaining to section 1(2) of the 2006 Act), are to:

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

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

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

1.3 The Explanatory Document is arranged as follows:

- **Chapter 2** - sets out the background and provides an overview of the proposals.

- **Chapter 3** - discusses the Defra consultation, and sets out the Minister's recommended Parliamentary procedure and statements as regards compatibility with human rights and EU membership obligations.

- **Chapter 4** - provides an analysis of the proposed reforms which they were presented for public consultation last Summer. The commentary includes details of respondents' views on each proposed reform, the Government's response to these and a summary of the reduction in burdens.

- **Annexes A through F** contain a copy of the Final Proposal Impact Assessment, a full list of consultees, a full list of respondents to the latest consultation, copies of the Dangerous Wild Animals Act 1976 before and after the proposed changes and finally a copy of the latest Schedule to the Act.

2 Background to the Order

Legislative background

2.1 The DWAA came about following the fashion in the 1970s for keeping exotic animals such as lions and tigers. It came into force on 22 October 1976 and aside from substitutions for the Schedule (the list of species requiring a licence), the latest being in October 2007, the main body of the DWAA has remained substantively unamended (apart from the updating of references to other statutes) since that time. Its primary purpose is to protect the public from risks arising from the keeping of dangerous wild animals, by way of a licensing regime administered and enforced by local authorities. It also contains some ancillary welfare provisions.

Reasons for reform

2.2 Review of the DWAA has found that, although it could be judged to have been effective, with no serious incidents relating to escaped dangerous wild animals since it came into force, the DWAA is currently poorly regarded.

2.3 There has been longstanding demand for reform of the DWAA from animal keeping organisations and the keepers themselves, and growing anecdotal evidence to suggest a high level of non-compliance by keepers and inconsistent implementation by local authorities. Following an independent review of the DWAA in 2001[1], and subsequent consultation exercises in 2002 and 2004[2], it was decided to develop deregulatory proposals to revise the DWAA, so that it is more focused on risk and minimises the level of regulatory burden on local authorities and animal keepers. These proposals were included in the most recent public consultation carried out last year.

2.4 The DWAA does not currently adopt a proportionate approach to the regulation of dangerous wild animals based on risk to the public. It is inconsistent with other relevant legislation relating to public safety and the enforcement and inspection regime is inconsistent with "Hampton principles"[3].

2.5 The draft Order forms the second part of measures to ensure that the DWAA is relevant and places a burden on keepers and the local authorities who administer the DWAA that is proportionate to the assumed risk. The first measure was taken in October 2007 when the list of species subject to the DWAA was revised, and those species that posed little or no threat to public safety were removed. A small number of species were added. The present draft Order proposes to reform some of the administrative procedures the DWAA places on keepers and local authorities, ensuring a risk based inspection and enforcement regime consistent with

[1] Greenwood AG, Cusdin PA and Radford M (2001) Effectiveness Study of the Dangerous Wild Animals Act 1976 . Defra Research Contract CR0246.

[2] Defra (2004) Proposals for Improving the Effectiveness of the Dangerous Wild Animals Act 1976

[3] Hampton P (2005) Reducing administrative burdens: effective inspection and enforcement. Report to HM Treasury.

"Hampton" and reducing associated administrative burdens in line with the Department's Simplification Plan.

2.6 In the 2004 consultation 100% of respondents supported the broad proposal (Option 2, detailed in the impact assessment at Annex A, "*to reform the [DWAA] to minimise burdens whilst retaining proportionate public safety benefits...and update the guidance to local authorities*) that the DWAA required revision to improve its effectiveness, bring it up to date and make it fit for purpose. The key risk if we do not proceed is that the legislation will continue to be inconsistently applied, with disproportionate administrative burdens on keepers further undermining confidence in, and support for, the DWAA. There is also the possible damage to the Department's reputation with regard to meeting its obligations to the Simplification Plan.

Overview of proposals

2.7 The proposals are intended to be in line with Government's intention to deregulate where desirable and regulate with as light a touch as possible. It is also intended that the principle of risk assessment should be able to be entrenched throughout the regulatory system, so that the burden of enforcement falls most on highest-risk areas and least on those with the best records of compliance.

2.8 The draft Order makes three proposed amendments to the DWAA which are intended to provide an improved and better focused licensing regime and reduce the level of burden on local authorities and dangerous wild animal keepers, whilst retaining the public safety benefits. Those keepers adopting and maintaining higher standards will benefit most from this deregulation exercise. The proposals are:

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

2.9 Currently the DWAA requires that an inspection be undertaken upon every application for a licence (whether "original" or "replacement"), with ensuing administrative burdens and costs both to local authorities, in arranging and intending inspections, and to keepers in the payment of inspection fees.

2.10 The intention of this proposal is to provide local authorities with flexibility in the requirements for undertaking inspections. Premises will be inspected when licences are first applied for, but subsequent inspection upon replacement of a licence for a species that is currently licensed, or upon an application for a licence in respect of a species of the same family of species for which a licence is already held, will only be required when the local authority deems it necessary, for example where there is particularly high risk, where new species (not of the same family) are to be kept, or where there are concerns or problems relating to the keeper.

2.11 The proposal will enable inspections and administrative effort to be more focused on risk and on the regulatory objectives. The ability to forego renewal inspections will only apply in limited circumstances however, and local authorities will still retain the power to require veterinary inspection of licensed premises at any reasonable time, including in respect of any licence that is no longer subject to a mandatory application inspection.

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

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

2.12 Currently licences are only valid for the calendar year in which they have been granted (even if they are issued in December they automatically expire on 31 December), or for (the whole of) the next following year, which means that they must be renewed annually.

2.13 The proposal to extend a licence period to two years will mean that fees paid by keepers for such licences would only be payable once every two years, effectively halving the costs to the keeper. In addition, there would be a reduction in administrative burdens both for keepers and the local authorities in applying for or processing applications.

Sectors and groups affected

2.14 The DWAA is primarily aimed at private animal keepers and exempts many commercial businesses such as pet shops, zoos, circuses and scientific establishments. However, some small businesses are affected by the legislation. Appropriate representative organisations have been consulted during the DWAA's review and have consistently supported the revision of the legislation to make it less burdensome and the new proposals will help reduce the administrative burden on them.

2.15 It is confidently expected that small businesses will welcome the changes that will make the DWAA more credible and proportionate and which aim to reduce burdens to the minimum consistent with meeting the DWAA's objectives.

2.16 Local authorities in England and Wales administer and enforce the DWAA and they will remain responsible for these matters. Enforcement of the DWAA is likely to be more effective if the legislation is more flexible, requiring less routine inspection and allowing for more targeting of situations where there are concerns or where the risks are perceived to be higher.

2.17 Full details of the costs and benefits, and the reduction of administrative and financial burden on local authorities and keepers, can be found in Chapter 4 and in the Final Proposal impact assessment to be found in Annex A. This impact assessment has been reviewed by Defra's Chief Economist, and the Minister, and been approved by each as representing a reasonable view of the likely costs, benefits and impacts of the proposed changes to the DWAA.

3 Ministerial duties under the 2006 Act

Consultation

3.1 Section 13 of the 2006 Act lays a number of duties on Ministers regarding public consultation on proposals that they intend to make under that Act.

3.2 The Minister has fulfilled the obligations laid down to undertake full and extensive consultation on the LRO proposals through the Defra consultation exercises described below. The latest consultation document[4] was approved by both the Domestic Affairs and Legislative Parliamentary Committees.

3.3 The Minister has assessed the responses to the latest consultation and in the light of these has decided that it is appropriate to proceed with the proposals contained in the draft Order. The Minister is satisfied that the Order serves the purpose set out in section 1(2) of the 2006 Act and, where relevant, meets the conditions imposed by section 3(2) of that Act (further information is on pages 8-15 and 18-20).

Overview of consultation and responses

3.4 The Department most recently conducted a full public consultation on the LRO proposals for a three month period between 2 June and 22 August last year. A copy of the consultation document, which was approved by the DA and L Parliamentary Committees, can be found at :http://www.defra.gov.uk/corporate/consult/wildanimalsact/. Nearly one hundred interested stakeholders, including government departments, veterinary associations, welfare organisations and pet and animal keeping organisations, were consulted, along with all the local authorities in England and Wales. A full list of those consulted can be found in Annex B to this document.

3.5 There were 44 responses in total and these came from a range of local authorities, animal keeping associations, veterinary associations, non-governmental welfare organisations, and other interested stakeholders. A list of respondents can be found in Annex C. Stakeholders views during the review process tended to be divided into two opposing camps – those with an interest in keeping animals desiring “lighter touch” regulation and those primarily concerned with animal welfare desiring tighter controls aimed at delivering welfare objectives. This split also became apparent in responses to the consultation.

3.6 The main concerns running through the responses from those opposed to the proposals were with regard to animal welfare. Some felt that the welfare of dangerous wild animals would be adversely affected in view of one of the original proposals, which was to remove from the DWAA the requirement for certain animal welfare conditions to be satisfied before a licence could be granted. This particular proposal is not now being pursued and does not appear in the draft Order.

[4] Defra (2008) Consultation on changes to the arrangements for licensing the keeping of dangerous wild animals – Amending the Dangerous Wild Animals Act 1976

3.7 There was general support for the Departments' proposed revisions to the DWAA and further details can be found in Chapter 4 of this document. In view of the responses to the consultation, and after due consideration, the Minister has decided to pursue the changes detailed in the draft Order. The Summary of Responses can be found at http://www.defra.gov.uk/corporate/consult/wildanimalsact/summary-responses.pdf

Changes to the draft Order post-consultation

3.8 The reaction from respondents to the proposal to remove the welfare provisions from the DWAA however was particularly strong, with the majority opposing. Welfare organisations and veterinary associations were particularly vehement in their opposition and cited numerous reasons why the welfare provisions should remain.

3.9 It was never the Department's intention to leave dangerous wild animals bereft of welfare protection: the intention was only to remove references to welfare from the DWAA following the coming into force of the Animal Welfare Act 2006 (AWA) with its (tougher) animal welfare requirements.

3.10 Following reconsideration of the provisions of the AWA, which of course does provide increased welfare protection for kept animals, it was felt that it did not negate the need for the protection afforded by the DWAA. For example, the DWAA allows for prospective assessment of the suitability of an individual to look after the welfare needs of an animal and provides for a pre-licensing inspection to ensure the premises where animals are to be kept is suitable (and adequate to ensure public safety). The AWA does not do this. Additionally, many dangerous wild animals licensed under the DWAA are not kept in public view and therefore there would be less chance of welfare problems being reported (via the provisions of the AWA) by a third party.

3.11 In addition there is currently no secondary legislation or codes of practice available (under the AWA) for such animals. A code of practice for the welfare of primates is currently being developed but no further codes of practice or secondary legislation are planned at present. The AWA would in any event be used reactively, in the main, to investigate behaviour subsequent to DWAA licensing, that was likely to constitute an offence under the AWA.

3.12 Alternatively, in return for removing the DWAA's own requirements on animal welfare, some respondents suggested that it be made a condition of a DWAA licence that the AWA's requirements on welfare should be met. Of course, the AWA will be policed and enforced in its own right, but the suggestion that we might somehow reinforce the AWA's obligation by way of DWAA licensing was arguably to seek to impose that tougher burden through this LRO. Legal advice was that such a provision would be to introduce into the DWAA either an increased burden or an unnecessary one, and in neither case something to be undertaken by this LRO.

3.13 For the reasons stated above the proposal to remove the welfare provisions from the DWAA will not now be pursued and the draft Order has been amended to reflect this.

Section 3(2) preconditions – consultation responses

3.14 Each proposal included in a draft Order must satisfy the preconditions set out in section 3 of the 2006 Act and the Minister will need to satisfy the Parliamentary Scrutiny Committees that they do. For this reason there was a specific annex contained in the last consultation document which was designed to elicit the information required in this respect. The specific questions asked, the responses to each from respondents, together with the Department's response are detailed below. The proposals are:

(a) to remove the mandatory requirement for inspections to be carried out in respect of certain applications for a replacement, or second, licence;
(b) to extend the period of validity of a licence from a maximum of one calendar year to two years;
(c) to provide that licences (other than in the case of licence renewals) will come into force immediately upon their being granted (rather than, as was previously the case, from either the date of grant or the beginning of the next following year).

Questions contained in the consultation document:

1) **Do you have views regarding the expected benefits of the proposals as identified in this consultation document and addressed in the Impact Assessment?**

Summary
Over half of the respondents, 8 of 15, expressed positive views on the proposed changes to the DWAA. Respondents were happy that administrative and financial burdens would be reduced for keepers and local authorities and that a risk-based approach would allow authorities increased flexibility with regard to enforcement. Other respondents were of the view that *"loosening the requirements of the DWA Act"* would weaken the original purpose of the Act, i.e. to protect the public, and that any benefits were likely to be outweighed by a potential increase in risks to the public. There were also concerns about the removal of the welfare provisions of the DWAA as they currently provide a "pre-emptive assessment" of the welfare of these animals.

Response
The Department has addressed many of the concerns in its responses to the following questions.

2) **Do you think the proposals will remove or reduce burdens..... ?**

Summary
The majority of respondents, 11 of 15, agreed that the proposals would remove or reduce burdens, financial and/or administrative, on local authorities and/or dangerous wild animal keepers. One respondent suggested that reduced surveillance (falling from the proposal to remove the mandatory requirement for inspections on licence renewals) could lead to a longer term burden for local

authorities as a result of having to investigate breaches of the DWAA which, they feel, would inevitably increase and another thought there would be a similar impact on welfare organisations that rescue and re-home mistreated animals.

Response
With regard to proposal (a), although the "mandatory" requirement for inspections prior to the grant of certain replacement, or second, licences will be removed the option not to inspect will only be available to local authorities in certain circumstances and local authorities will still be able to authorise veterinary inspections at licence renewal if they see fit. The ability of local authorities to authorise the veterinary inspection of premises at any reasonable time will also remain.

3) **If there is any empirical evidence of which you are aware that supports the need for these reforms please provide details:**

Summary
There were concerns expressed about the variance in licence and inspection charges and attitudes towards the DWAA in some local authorities. Respondents suggested that some authorities were actually refusing to issue licences and others were using the DWAA in a punitive manner i.e. making the cost of a licence unattractive or insisting on specialist vets at licence renewals (with the accompanying high costs).

Response
The Department will be issuing new guidance on the implementation of the DWAA which will help ensure consistent implementation of the legislation. The issue of licence fees and licence renewal inspections will both be covered in the guidance.

4) **Are there any non-legislative means that would satisfactorily remedy the difficulties which the proposals intend to address?**

Summary
The majority of respondents, 8 of 9, replied in the negative, feeling there was a strong need for a legislative framework. There were suggestions that some of the species covered by the Act should be removed from licensing once adequate secondary legislation was in place under the AWA, that there should be a set of guidelines drafted for use by local authorities and that there should be provisions in the DWAA to read-across to the requirements of the AWA.

Response
The Department last revised the Schedule to the DWAA in 2007 to ensure that it contained only those species considered to present a genuine threat to the public and does not intend to make further revisions in the near future. As stated above, the Department intends to issue guidance on the implementation of the DWAA in due course. Potential read-across to the provisions of the AWA is looked at below.

5) **Are the proposals put forward in this consultation document proportionate to the policy objective?**

Summary
The majority of respondents, 9 of 13, thought that the proposals were indeed proportionate to the policy. Four respondents, two veterinary associations and two welfare non-governmental organisations, thought they were not. Their main concerns were: that the proposals would increase potential risk to the public whilst potentially compromising animal welfare; problems of welfare were not being eliminated but merely transferred to another piece of legislation (AWA) which is "..at present inadequately competent to cope", (secondary legislation/codes of practice not available as yet and not likely to be forthcoming in the foreseeable future); the administrative savings arising from these changes would be minor whereas the potential impact on animal welfare is large (there was also risk of a reduction in public safety). To counter this they have suggested maintaining annual inspections, to ensure animals are housed appropriately and numbers and species comply with the licence, high annual licence fees as a deterrent (if keepers cannot afford a licence fee it is unlikely they can afford proper husbandry), and the ability for local authorities to outline prescriptive welfare requirements in licensing conditions.

Response
As stated previously the DWAA currently contains some ancillary welfare provisions which we originally considered should be removed following the enactment of the AWA. After further consideration this proposal is not now being pursued. Details can be found further on in this document.

The Department will be addressing the issue of licence fees in its guidance and will make it clear that fees should only be at a level which is sufficient to meet the direct and indirect costs which local authorities incur as a result of an application and should not be used punitively. The Department could not condone the setting of overly high fees to deter people from keeping dangerous wild animals, the assumption is that such animals can be kept privately as long as the provisions of the DWAA have been satisfied. Local authorities will retain the ability to specify such conditions as they deem necessary within the provisions of the DWAA and authorise veterinary inspection of premises at any reasonable time.

6) **Do the proposals put forward in this consultation document taken as a whole strike a fair balance between the public interest and any person adversely affected by it?**

Summary
The majority of respondents, 9 of 14, thought that the proposals did strike a fair balance between the public interest and those who could be adversely affected, public protection was foremost and public interest was best served by such deregulatory proposals which would increase compliance. Two of those were happy with proposals but not the one to remove welfare provisions suggesting that animals accommodation must be considered for welfare as well as (public)

safety. Of those who responded negatively, two thought it would not be in the public interest to “loosen regulations” surrounding the keeping of dangerous wild animals, even if incidences of threats to public safety were low, and another thought the changes would unacceptably increase the risk to the public.

Response
The Department feels that the proposed changes to the DWAA will enable local authorities to better focus its controls on the primary aim of public safety and apply the controls more proportionately to the level of risk. The introduction of more flexibility with regard to inspections will also assist this. The proposal to remove welfare provisions will not now be pursued and the requirement for welfare, in addition to public safety, to be addressed at inspection prior to licences being issued will remain.

7) Do the proposals put forward in this consultation document remove any necessary protection?

Summary
Nearly 50% of respondents, 7 of 15, replied in the negative. It was noted that protective measures could still be utilised at the discretion of the local authority, the increased flexibility afforded to local authorities will mean a reduction in burden where compliance is maintained (but allowing for action to secure necessary protection where required), and the proposals would bring the DWAA back into better repute leading to higher levels of compliance. A little over half of the responses, mainly from non-governmental welfare organisations and veterinary organisations, raised concerns that the proposals would lead to a less stringent inspection and licensing regime, with possible implications for public safety, and that the removal of the welfare provisions would have a negative welfare impact on the animals themselves by removing a layer of protection (pre-emptive inspection), the feeling being that the AWA does not sufficiently protect vulnerable exotic species (such as primates) and there is no secondary legislation covering dangerous wild animals available either.

Response
There have been no serious incidents relating to escaped dangerous wild animals and the Department feels that the flexibility given to local authorities with regard to inspections, including increasing the length of the validity of a licence to two years, will enable them to focus their resources on those cases where there may be a greater risk to public safety. The local authorities retain the ability to authorise veterinary inspections in addition to those undertaken prior to the granting or renewing of a licence. The ancillary welfare provisions in the DWAA are now to be retained as these are largely prospective. The provisions of the AWA are more reactive and will address any subsequent concerns with regard to animal welfare which may occur after DWAA licensing has taken place.

8) **Do the proposals put forward in the consultation document prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise? If so, please provide details.**

Summary
The majority of respondents, 8 of 11, replied in the negative. It was noted that the proposals would help to address the disproportionate licensing and administrative burden on DWA keepers. One respondent raised concerns that the changes would adversely affect the public's right to safety and would impact on the work of welfare organisations.

Response
The Department's views with regard to public safety have been addressed in questions 6 and 7 above.

9) **Do you consider the provisions of the proposals to be constitutionally significant?**

Summary
The majority, 8 of 11, of respondents did not consider the provisions of the proposals to be constitutionally significant. One noted that the removal of welfare provisions was significant and another noted that the removal of protections necessary for both public and animal welfare would cause further confusion and suffering.

Response
The Departments views with regard to the public safety and animal welfare considerations of the proposals are covered in responses to earlier questions.

10) **Do the proposals put forward in the consultation document make the law more accessible and easily understood?**

Summary
Of the 14 respondents, five thought that the changes would make the law more accessible and easily understood, with a further five suggesting there would be no significant difference. Two respondents suggested that clarity about the DWAA would be better achieved through training of local authority staff in their responsibilities under the DWAA and through the issuing of guidance, another suggested it was important that all legislation relating to the keeping of animals, including the DWAA, should acknowledge, complement and have read across to other such legislation.

Response
The Department is intending to consult with a small core of main stakeholders (local authorities, animal keeping associations for example) when drafting the guidance on the implementation of the DWAA. It is hoped the guidance will address those areas of most concern to keepers, local authorities and concerned non-governmental organisations and lead to more consistent implementation and a better understanding of the DWAA. The guidance will also

include information regarding the DWAA's relationship with other animal keeping legislation, including the AWA.

11) Do you agree that the proposed Parliamentary resolution should apply to the scrutiny of this proposal?

Summary
The majority of respondents, 10 of 12, agreed that the affirmative resolution procedure should be applied, it was considered to be sufficient and the most appropriate course of action. The two other respondents, because of their concerns with regard to the welfare of dangerous wild animals, suggested that the super-affirmative resolution procedure be used in order to allow Parliament the opportunity to debate the proposals. These concerns would have been allayed somewhat by the retention of the welfare provisions of the DWAA.

Response
The Department is satisfied that the proposed revisions to the DWAA are very few, minor and non-controversial and 40 days scrutiny afforded by the affirmative resolution procedure, together with approval by both Houses of Parliament, is sufficient and proportionate.

3.15 In view of the above the Minister considers the preconditions in section 3(2) of the 2006 Act, where relevant, are satisfied. It is clear that this is a view supported by many of the consultees' responses, notably, the majority of respondents thought :

- **the proposals were proportionate to the policy objective;**
- **the proposals struck a fair balance between the public interest and the interests of those who could be adversely affected by them;**
- **the proposals do not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to;**
- **the proposals are not of constitutional significance.**

The Minister is therefore content to proceed with the Order on this basis.

3.16 Nearly half of respondents thought that the proposals would not **remove any necessary protection.** However, welfare and veterinary organisations did raise some concerns about the proposal to remove the welfare provisions from the DWAA. They felt the removal of these provisions would have a negative welfare impact by removing a layer of protection (pre-emptive inspections of premises) which the AWA could not replace. After further consideration, and as stated previously, the proposal will not be part of the Order.

3.17 With regard **to making the law more accessible or easily understood**, a third of respondents thought the changes would aid this, with a similar number saying the changes would have no impact either way. In addition to the proposed changes to the DWAA, the Department is committed to publishing guidance for local authorities which will provide much needed detail on the provisions of the DWAA, both new and original. It is hoped the guidance will promote a more consistent implementation of the legislation which will assist with increasing support and compliance amongst animal keepers.

3.18 **Various non-legislative options,** seeking to improve the implementation of the DWAA, were included in earlier public consultations. However 100% of respondents to the 2004 consultation supported the broad proposal that the DWAA required revision to improve its effectiveness and make it fit for purpose. Subsequent consideration determined that changes should be made via the LRO process.

Devolved administrations

3.19 The DWAA applies in England, Wales and Scotland. However, the subject matter, "animals", is devolved in Scotland, as not being a reserved matter in Sch.5 to the Scotland Act 1998, and so the changes introduced by this proposed draft Order apply to England and Wales only. The changes "limited" extent is not made apparent on the face of the text (it is not standard practice that it should be): this is consistent with earlier amendments to the DWAA which have substituted the Schedule (separately, for England and Wales, and for Scotland) and introduced a (Scotland-only) Section 6(3A).

3.20 Functions under the DWAA have not been transferred to Wales and no formal consent is required from the National Assembly or Welsh Ministers for the LRO to proceed. However, the Minister has written to the relevant Welsh Minister informing her of our intentions.

Minister's recommended Parliamentary process

3.21 Under the provisions of section 15(1) of the 2006 Act, the Minister recommends that the Parliamentary procedure which should apply in relation to the making of an order pursuant to this draft Order should be the affirmative resolution procedure for which provision is made by section 17 of the 2006 Act. This procedure was chosen because while the proposed revisions to the DWAA are few, fairly minor and (arguably) non-controversial in nature, matters concerning animals often attract significant Parliamentary and public interest. It therefore seems sufficient and appropriate for the draft Order to receive a degree of Parliamentary scrutiny greater than that which would be available under the negative resolution procedure, but the Minister believes that there is little justification for the use of the super-affirmative procedure provided for in section 18 of the 2006 Act.

3.22 This conclusion has been supported by most of the twelve responses received to the consultation document which addressed this point. Ten respondents expressly agreed that the draft Order should be subject to the affirmative resolution procedure. Only two respondents called for the use of the super-affirmative resolution procedure, because of their concerns with regard to the welfare of dangerous wild animals. These concerns would have been allayed by the retention of the welfare provisions of the DWAA.

Statements on compatibility with:

The European Convention on Humans Rights

3.23 The Minister has made the following statement regarding Human Rights:

"In my view the provisions of the Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009 are compatible with the Convention rights."

Obligations arising from membership of the European Union

3.24 It is the Ministers' view that the proposals included in this LRO are compatible with all the requirements of EU membership and with EU legislation.

4 The Governance reforms

4.1 Under section 1 of the 2006 Act the Minister can make an LRO for the purpose of *'removing or reducing any burden, or the overall burdens resulting directly or indirectly for any person from any legislation'* and section 1(3) defines a 'burden' as:

- a financial cost;
- an administrative inconvenience;
- an obstacle to efficiency, productivity or profitability; or
- a sanction, criminal or otherwise, which affects the carrying on of any lawful activity

4.2 The changes to the DWAA detailed in the proposed draft Order are intended to reduce the level of burden, both financial and administrative, imposed on animal keepers and on local authorities which administer and enforce the DWAA, whilst retaining the public safety benefits of the legislation. They are intended to be in line with the Government's intention to deregulate where desirable and regulate with as light a touch as possible. It is also intended that the principle of risk assessment should be entrenched throughout the regulatory system, so that the burden of enforcement falls most on highest-risk areas and least on those of low risk.

The proposals

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

4.3 Before it may grant a licence to keep a dangerous wild animal, section 1(5) of the DWAA requires a local authority to obtain a satisfactory report from a vet on the premises at which it is proposed that the animal will be kept. This requirement applies to applications for all licences, whether first licences or for replacements for existing licences. The inspection is required to supply information enabling the local authority to decide whether the premises are suitable (i.e. secure, and appropriate for the species) and to describe their condition.

Amendments proposed

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

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

and where:

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

inspections will be required only when the local authority considers it to be necessary. Inspections will remain a requirement in relation to all other applications for a licence.

Consultation reaction and Government response

Reaction

4.5 Of the 15 responses received with regard to this proposal just under half agreed with the removal of the mandatory requirement for an inspection upon renewal of a licence. The flexibility was welcomed, local authorities would inspect where it was deemed required, in higher risk areas, but also had the option to allow premises with a lower risk rating to receive longer periods between inspections in some cases.

4.6 The main concerns of those opposing, including welfare organisations and veterinary associations, were with regard to the possible effects on the welfare of the animals. Issues raised were: many contentious species were recently removed from the Schedule so it was more important that those animals genuinely deemed dangerous were inspected regularly; if the licence was to be valid for two years the risks associated should be assessed at each licence renewal; premises could continue indefinitely under the licence without inspection (thereby leading to a risk to public safety); inspections should remain mandatory for renewal and for when the numbers and species (of primates) kept change.

Response

4.7 The intention of this proposal is to provide local authorities with flexibility in the requirements for undertaking inspections. Premises will be inspected when licences are first applied for but subsequent replacement or "same-family" licence inspections will only be required when the local authority deems it necessary, for example where there is particularly high risk, where significant changes have been made to the species kept, or where there are concerns or problems relating to the keeper. The proposal will enable inspections and administrative effort to be more focused on risk and on the regulatory objectives. The ability to forego certain replacement or second licence inspections will only apply in limited circumstances, however, and local authorities will still retain the power to authorise veterinary inspection of licensed premises at any reasonable time, including in respect of any licence no longer subject to mandatory application inspection.

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

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

4.8 Section 2(2) and (3) currently restrict the validity of any licence to the calendar year in which it is granted, or to the next following year, and states that it remains in force (unless

cancelled) until the end of the year to which it relates. This means that all licences expire on 31 December. This is fine if the licence is granted at the beginning of January, but other licences could be issued much later in the year, in the case of new keepers for example, and the validity will be that much shorter in such cases. Section 2(3) also provides that where an application is made for a further licence prior to the expiry of the original one, then the original will be deemed to be still in force until the grant or refusal of the new licence. If a new licence is granted it commences from the date of expiry of the last licence.

Amendments proposed

4.9 The draft Order will substitute new section 2(2), (3), (3A) and (3B) for the current section 2(2) and (3), so as to provide for licences to come into force immediately upon being granted (subject to new provisions regarding renewal of licences) and for these to be valid for two years before they expire.

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

Consultation reaction and Government response

Reaction

4.11 Of the 13 responses received with regard to these proposals, over half were agreeable to the licence validity being increased to two years from the date of issue. It was thought that a two year licence would encourage greater compliance and was a sensible action in reducing financial and administrative burdens. The main concerns of those opposing were on welfare grounds. Some thought that increasing the interval between inspections might lead to increases in numbers of animals kept and could mean premises remaining uninspected for many years leading to unacceptable standards of accommodation and animal suffering.

Response

4.12 The onus will remain on local authorities to enforce the legislation and the proposals as a package are intended to make enforcement more effective through making the legislation more flexible. Fewer routine inspections will allow for more targeting of situations where there are concerns, where the risk is perceived to be higher or where particularly sensitive species, such as primates, are involved. The local authority will retain the ability to inspect upon issuance of a new licence, in the case of renewals if they so wish, although this will not now be mandatory, and also at other times if they see fit.

Requirements of the 2006 Act

4.13 These provisions are being made under section 1(1) of the 2006 Act. With regard to satisfying section 3(2) of that Act:

Could the policy objectives be secured by non-legislative means?

4.14 No, the current provision requiring inspections prior to the granting of all licences, including renewals, is set out in section 1(5) of the DWAA and similarly the provisions regarding the validity of licences and their expiry are set out in section 2(2) and (3) of the DWAA. Changes to these sections can only be made by amending the legislation. There is no non-legislative means of amending these provisions.

Are the provisions proportionate to the policy objectives, and fair?

4.15 There has been long-standing demand for reform of the DWAA from animal keeping organisations and anecdotal evidence of a high level of non-compliance because of wide spread disparities in licence and application fees and inconsistent enforcement by local authorities. A number of options were identified during the 2004 public consultation, including maintaining the status quo, repealing the legislation and relying on self-regulation, and just updating guidance. However, all respondents agreed that revision of the DWAA was required to improve its effectiveness. The changes proposed, designed to minimise burdens whilst retaining proportionate public safety benefits, are therefore deemed proportionate and fair.

Do the proposals strike a fair balance between the public interests and the interests of any person adversely affected by them?

4.16 The proposals strike a fair balance between the public interest and those who could be adversely affected. Public protection is foremost, and the public interest is best served by such deregulatory proposals which are anticipated to increase compliance with the legislation.

Do the proposals remove any necessary protection?

4.17 The proposals will not remove any necessary protection. Some welfare organisations raised some concerns about the original proposal to remove the welfare provisions from the DWAA. They felt the removal of these provisions would have a negative welfare impact by removing a layer of protection (pre-emptive inspections of premises) which the AWA could not replace. After further consideration the Minister decided to leave the DWAA's welfare provisions in place.

Do the proposals prevent any person from continuing to exercise any right or freedom?

4.18 The proposals do not prevent the exercise of any right or freedom which a person might reasonably expect to continue to exercise. The reforms will not affect the wider exercise of the right and freedom to keep dangerous wild animals under licence.

Are the proposals of constitutional significance?

4.19 No; the changes to the DWAA are few, fairly minor and non-controversial in nature and so the affirmative resolution procedure was deemed sufficient for this draft Order.

Will the changes make the legislation more accessible or more easily understood?

4.20 The changes themselves are designed to be deregulatory and to ease the burden on keepers and local authorities. A number of respondents to the consultation agreed that the changes would make the DWAA more accessible and more easily understood, but to reinforce this the Department is to publish guidance to local authorities which will detail the provisions of the DWAA, both original and new, to assist in more effective operation of the legislation.

Have the provisions in the draft Order been the subject of, and taken appropriate account of, adequate consultation?

4.21 As part of the review of the DWAA there have been a number of public consultations over the years, with the most recent one last year including details of the changes we are proposing to be carried forward under this proposed draft Order. Subsequent consideration of the responses has led to one of the original provisions being dropped, but the Minister is content to proceed with the changes contained in the revised proposed draft Order.

How the provisions reduce or remove burdens

Current burdens

4.22 The DWAA prohibits keeping of species listed as dangerous wild animals, except under the terms of a licence from the relevant local authority (with the exception of zoos, pet shops, circuses and certain scientific establishments). Keeping such an animal without a licence is an offence. Licences to keep dangerous wild animals can only be granted by local authorities following inspection by a vet. Licences are only valid for the calendar year in which they were issued (or for the next following calendar year) and must therefore be renewed annually (following an inspection by a vet each time). The keeper is required to pay the vets fees.

4.23 There is a financial and administrative cost for an application for a licence, including for each new annual renewal (the application fee is determined by each local authority as being a fee sufficient to cover the direct and indirect costs of processing the application). The level of fees varies widely between local authorities.

New provisions

4.24 The new provisions, detailed below and contained in the proposed draft Order, were developed from the agreed option falling from the 2004 consultation to *"reform the Act to minimise burdens whilst retaining proportionate public safety benefits, as per the Government's current proposals, and update the guidance to local authorities".*

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

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

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

4.25 Maintaining the current licensing system enables the DWAA to continue to be self-financing as it permits full-cost recovery, of direct or indirect costs arising from applications, for local authorities through licence fees. The licensing scheme is already in place, so there will be no implementation costs. However, by extending the validity of licences to two years from the date of issue, and removing the need for mandatory inspections on certain applications for replacement, or second, licences, it would mean a lowering of costs to both keepers and local authorities than retaining the current licensing system as it is.

4.26 The requirement to license and inspect animals is sufficiently flexible to allow a proportionate level of enforcement action, such as risk-based inspection and focus on new licensees. These new provisions relieve lower-risk keepers from unnecessary subjection to "routine" procedures. This lighter-touch scheme, removing the mandatory requirement for inspections for some licences, is also more likely to encourage adherence and compliance from animal keepers.

Benefits

Application and vet's fees

4.27 The DWAA states that licence applications shall be *'accompanied by such fee as the local authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application)'*. Local authorities are therefore responsible for setting the fees which will be charged so that they can recover their overall costs.

4.28 Based on information sought via a questionnaire contained in the 2008 consultation, the average licence fee has been assessed at £185 (although the sample was small, and in view of the large number of local authorities it is likely that some charge more than this). In addition to the figures received on application fees we sought similar information on vet's fees (the average licence fee referred to above does not include vet's fees). The average fee, based on the returned questionnaires, was £105. Therefore in 2007, including vet's fees, we estimate that on average an applicant might expect a total fee in the region of £290 for annual licensing. There will, however, be variation between different local authorities.

Application time

4.29 As well as incurring the application fee, keepers also face the cost of their time in completing the application. For the purposes of completing the impact assessment (at Annex A) we have assumed an average application completion time of 30 minutes and, using the population of 375 (based on the survey of keepers in 2000) this gives an indicative collective administrative burden for keepers of £4,000 for form completion. The proposed simplification detailed in the proposals – to increase the licence period validity to two years – would lead to a reduction in the collective burden of 50%, some £2,000.

Inspections

4.30 There is another burden on keepers, that of being available and accompanying inspectors when premises are required to be inspected. Currently inspections are required

when someone first applies for a licence and at the time of renewal (currently on a yearly basis). From responses to the 2008 consultation we can take an average time of an hour and a quarter for an inspection and, using the population of 375 (based on the survey of keepers in 2000), this gives an indicative collective administrative burden for keepers of £10,000 for attending inspections each year.

Cost savings

4.31 The benefits of these proposals can be shown as the estimated cost savings outlined in Table 1 of the impact assessment. Reforming in this way means licences only need to be applied for every two years. This halves the average annual costs in application fees to £54,375, giving a saving per applicant of £145 per year. Over an appraisal period of 4 years the total collective cost saving will provide a present value benefit of approximately £203,159. This figure increases to £229,313 when savings from reduced application filling and inspection attendance are factored in.

4.32 This may be an underestimate, as there could be cost savings to local authorities from less frequent licence processing and inspections. However, this is likely to be to a limited extent, as the general principle is to aim for full cost recovery, so local authorities will face fewer costs, but with correspondingly fewer application fees. The divergence of fee structure between local authorities makes this difficult to assess, plus fees may change after policy implementation. Public liability insurance is also excluded as this will vary with the animal kept and the numbers involved, but would remain constant under both options.

4.33 The impact on the Admin Burdens Baseline, to include those savings identified above in reduced time completing applications and attending inspections, equates to a decrease of £7,000 – reduced further, to allow for inflation between 2005 and 2007 – to a figure of £6647 as shown at the foot of page 2 of the impact assessment.

4.34 Regarding the provision to remove, in certain circumstances, the mandatory requirement for inspections upon *every* renewal of a licence, it is envisaged that there would be some reduction in administration costs for keepers here as well. This saving is not quantifiable as it is not known whether local authorities will use this discretion in view of the fact that licences are going to be valid for two years. They may feel that an inspection is required after this amount of time and continue to inspect on renewal. Also, the figures do not include the time taken to attend any ad-hoc inspections which the local authority may authorise during the validity of the licence. The Department would be in a better position to assess the savings of this provision following a review it would undertake in four years time, after two full licensing periods.

Annex A - Summary: Intervention & Options

Department /Agency: DEFRA	Title: Impact Assessment – Amending the Dangerous Wild Animals Act 1976	
Stage: Final Proposal	**Version:** 1	**Date:** May 2009
Related Publications: Consultation paper, draft amended Regulation, Summary of Responses, Explanatory Document		

Available to view or download at:
http://www.defra.gov.uk/corporate/consult/wildanimalsact/

Contact for enquiries: dave.wootton@defra.gsi.gov.uk **Telephone:** 0117 372 8686

What is the problem under consideration? Why is government intervention necessary?

The Act's purpose is to protect the public from the threat posed by the private keeping of dangerous wild animals by way of a licensing regime administered and enforced by local authorities. There has been long standing demand for reform of the Act from animal keeping organisations and other stakeholders who consider the legislation bureaucratic and not fit for purpose. Growing anecdotal evidence has suggested a high level of non-compliance and revising the Act to minimize burdens should increase acceptance and compliance with it.

What are the policy objectives and the intended effects?

A) Increase the period of a dangerous wild animal licence to two years and change the point from which a licence is valid to two years from the date it is granted, effectively halving licence costs for keepers.

B) Remove the mandatory requirement for an inspection in respect of certain applications for a replacement, or second, licence, thereby providing an element of flexibility for regulators, allowing inspections to be better focused on risks and reducing costs for keepers.

What policy options have been considered? Please justify any preferred option.

Option 1 – Do nothing

Option 2 – Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, update guidance to local authorities

Option 2 is the preferred option. Response to the 2004 public consultation found 100% of respondents were in favour of amending the Act and this option, bearing in mind Hampton Review recommendations, delivers reduced regulatory burden and additional benefits for stakeholders.

[details of discounted options can be found at Paragraph 4.1 in the Evidence Base]

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Four years from the time the Order comes into force.

Ministerial Sign-off For Final Proposal Impact Assessment:

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the proposed option.

Signed by the responsible Minister:

.....Date:.....

Summary: Analysis & Evidence

Policy Option: 2	Description: Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, update guidance to local authorities.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups' There are no monetised costs.
One-off (Transition)	**Yrs**	
£ N/A	3	
Average Annual Cost (excluding one-off)		
£ -	3	**Total Cost** (PV) **£ -**

Other **key non-monetised costs** by 'main affected groups' There could be a minimal increase in risk to public safety but there have been very few cases of escaped animals or animals causing damage and inspections will target those keepers where the risk is deemed greatest.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups' The key monetised benefits include £54,375 savings for keepers in application fees, £2,000 savings for keepers arising from less time completing applications and £5,000 for attending fewer inspections. These costs are averages per year, but reflect a doubling of the time period between renewal of licences.
One-off	**Yrs**	
£ N/A	3	
Average Annual Benefit (excluding one-off)		
£61,375	3	**Total Benefit** (PV) **£229,313**

Other **key non-monetised benefits** by 'main affected groups' There may be some cost savings to local authorities, but it is not clear if these will materialise or their potential magnitude. The response rate from local authorities to a request for information in the last consultation was low.

Key Assumptions/Sensitivities/Risks The application fees are based on survey data of local authority charges and estimated vets fees. The time savings for keepers are based on half an hour spent completing each application and an hour and a quarter attending inspections. There are assumed to be 375 licences issued a year, based on past trends. The appraisal period is four years.

Price Base Year 2007	Time Period Years 4	**Net Benefit Range** (NPV) **£ -**	**NET BENEFIT** (NPV Best estimate) **£229,313**

What is the geographic coverage of the policy/option?			England and Wales	
On what date will the policy be implemented?			Late October 2009	
Which organisation(s) will enforce the policy?			Defra and local authorities	
What is the total annual cost of enforcement for these organisations?			£ Not available	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ Negligible if any	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off) (Note: estimated annual saving per applicant)	Micro	Small **- £164**	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ Decrease of £ 6647 **Net Impact** **£** -6647

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

1. Background

1.1 The Dangerous Wild Animals Act 1976 ("the Act") came about following the fashion in the 1970s for keeping exotic animals, such as lions and tigers. Its primary purpose is to seek to protect the public from risks arising from the keeping of dangerous wild animals. It is intended to protect the public at large by regulating the keeping of dangerous wild animals rather than the animal keepers themselves. The Act also contains some ancillary welfare provisions.

1.2 The Act does not contain a definition for a dangerous wild animal. Instead it lists in a Schedule those animals that are subject to the provisions of the Act. It includes animals such as tigers, lions, chimpanzees, gorillas, crocodiles, venomous snakes and spiders. Local authorities are responsible for administering and enforcing the Act and anyone wishing to keep an animal listed in the Schedule must obtain a licence from his or her local authority.

1.3 There has been long-standing demand for reform of the Act from animal keeping organisations and growing anecdotal evidence has suggested a high level of non-compliance with the Act. A government-funded study[5] by the International Zoo Veterinary Group (IZVG), published in 2001, examined the Act's effectiveness. IZVG reported that the Act had been broadly effective inasmuch as there had been no reported serious injuries to the public.

1.4 There was however compelling circumstantial evidence to support claims of significant levels of non-compliance. They pointed to the view of many keepers that the controls extended to non-dangerous animals, to some species which are now farmed in significant numbers and widespread disparities in licence and inspection fees set by local authorities. They also identified weaknesses in the enforcement of the Act, leading to fears of widespread flouting of its provisions, and hearsay evidence that some local authorities were adopting blanket policies to refuse all licence applications.

1.5 It was considered that current legislation does not adopt a proportionate approach to the regulation of dangerous wild animals based on risk to the public. In addition it is not consistent with other relevant legislation relating to public safety and enforcement and inspection regime is not consistent with Hampton principles[6]. There has been formal consultation with stakeholders in developing the current proposals.

2. Consultation

2.1 The review of the Act has been underway since 2000 and there has been wide consultation of stakeholders throughout this process. The latest consultation took place in 2008.

2.2 The review began with the consultant's study of the effectiveness of the Act (undertaken by IZVG), which itself included surveying the views of stakeholders.

2.3 Following an initial consultation on this report in 2001/2, Defra formulated proposals for addressing the shortcomings of the Act and undertook a public consultation[7] exercise in Autumn 2004. 100% of respondents supported the broad proposal that the Act required revision to improve its effectiveness, bring it up to date and make it fit for purpose. However, 98% of respondents had caveats about some of the detail of those proposals (some arguing for less regulation and others for more).

2.4 Following the consultation in 2004, the Government has further considered the reform of the Act. This consideration has particularly taken into account the wider regulatory and policy framework relevant to keeping of dangerous wild animals. It became clear that the situation had developed since introduction of the Act in 1976 and there were other potential options to tackle problems. Since 1976, there is also a greatly increased emphasis that regulation should be more focused on risk and seek to minimise regulatory burdens in line with 'Better Regulation' policies. The new

[5] Greenwood AG, Cusdin PA and Radford M (2001) Effectiveness Study of the Dangerous Wild Animals Act 1976 . Defra Research Contract CR0246.

[6] Hampton P (2005) Reducing administrative burdens: effective inspection and enforcement. Report to HM Treasury.

[7] Defra (2004) Proposals for Improving the Effectiveness of the Dangerous Wild Animals Act 1976

proposals, set out in the 2008 consultation, seek to reduce the level of regulatory burden on both local authorities and animal keepers, with those adopting and maintaining higher standards benefitting most from the deregulation exercise.

2.5 This process has lead to development of new, more focused, proposals for regulatory reform of the Act. In addition to these proposals detailed below, we will make comprehensive guidance available to keepers and local authorities. Through the latest consultation process, by way of questionnaires contained therein, we sought input from stakeholders which will hopefully ensure a shared sense of ownership of the guidance and ensure that it is fit for purpose and delivers what is required. In addition, a small working group of main stakeholders will be convened to help compile the guidance to ensure those areas of most concern to interested parties are addressed.

2.6 This review process has enabled wide consultation with all the stakeholder groups, local authorities and many individuals with an interest, ensuring ample opportunity to feed views in to Government. Stakeholders views tend to be divided into two opposing camps – those with an interest in keeping animals desiring 'lighter touch' regulation and those concerned primarily with animal welfare desiring tighter controls aimed at delivering welfare objectives.

3. Sectors and groups affected

3.1 The proposals will affect private animal keepers, local authorities and potentially the wider public in England and Wales. Private animal keepers are generally individuals scattered throughout society. The Act also applies to those who are farming species which are considered to be dangerous wild animals and
hence included on the Act's Schedule. Since the Act came into force, a farming industry has developed in several of the listed species such as wild boar and ostrich.

3.2 The Act exempts zoos, circuses, licensed pet shops and also designated establishments within the meaning of the Animals (Scientific Procedures) Act 1986. These establishments are all regulated under their own legislation.

4. Options

4.1 In all five options were identified during the 2004 consultation:

- Do nothing (retain the status quo)
- Update the guidance to local authorities and encourage improved enforcement of the existing legislation, but undertake no legislative changes
- Repeal the Act and rely on self regulation
- Amend the Act to make it more robust, albeit with an increased regulatory burden (as envisaged in Defra's previous proposals, published in June 2004)
- Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, as per the Government's current proposals, and update the guidance to local authorities. [This is the preferred option, referred to as Option 2 in this IA]

4.2 As noted in paragraph 2.3 above, 100% of respondents wanted to see a revision of the Act to improve its effectiveness and taking into account the findings of the Hampton Report this left us with the options either to maintain the status quo (the first bullet point above) or pursue reform of the Act and update guidance to local authorities (the fifth bullet point above). **We are therefore taking forward the latter and preferred option which is now referred to as Option 2.**

5. The objectives

5.1 The following proposals are intended to be in line with Government's intention to deregulate where desirable and regulate with as light a touch as possible. It is also intended that the principle of risk assessment should be able to be entrenched throughout the regulatory system, so that the burden of enforcement falls most on highest-risk areas and least on those with the best records of compliance.

5.2 Unless the Act's shortcomings can be addressed and the Act made credible and effective, the risk of non-compliance grows and the possible threat to public safety becomes more real.

5.3 We therefore proposed reform of the legislation under Section 1 of the Legislative and Regulatory Reform Act 2006 to provide an improved and better focused licensing regime which will retain the public safety benefits, whilst reducing the level of the burden on local authorities and keepers.

6. The proposals

6.1 The proposals considered under the preferred option, Option 2, and contained in the 2008 consultation are to:

A. Increase the period of a licence to keep a dangerous wild animal from one year (maximum) to two years and change the point from which a licence is valid: in future this period will be two years from the date on which the licence is granted instead of the remainder of the calendar year or the following calendar year.

B. Remove the mandatory requirement for an inspection in respect of certain applications for a replacement, or second, licence, thereby providing an element of flexibility for regulators and allowing renewal inspections to be better focused on risk.

6.2 The proposal to remove the welfare provisions contained in the Act, Proposal C in the consultation, will not now be pursued. It was originally considered that there was no requirement for the Act to be particularly concerned with addressing welfare issues. This view has subsequently been revised following consideration of responses to the latest consultation, further consideration of the issues and advice from lawyers with regard to what actions can be taken via the Legislative Reform Order process.

7. Benefits and costs of the options

7.1 This section sets out the analysis of benefits and costs of these two options.

Option 1 - Do nothing (retain the status quo)

7.2 There are no substantive benefits to this option. It would not address the shortcomings of the Act, the fact that it is held in low regard and there is anecdotal evidence of non-compliance, which have become apparent through the IZVG report and previous public consultation responses. Since this is the baseline option, the additional costs and benefits of this option are zero. The additional costs and benefits of Option 2 are compared to this baseline.

Option 2 - Reform the Act to minimise burdens whilst retaining proportionate public safety benefits, as per the Government's current proposals, and update the guidance to local authorities

7.3 This approach is the one proposed in the last consultation paper and detailed above in Paragraph 6.1.

7.4 It would be proportionate for the enforcement authority to know of the existence and location of dangerous wild animals given the potential risk that they pose and to ensure that they are kept securely. It also allows for other conditions to be applied if there were particular concerns or problems.

7.5 Maintaining a licensing system enables the Act to continue to be self-financing (as with the current licensing system) but by extending the validity of licences to two years from the date of issue, and removing the need for mandatory inspections upon each renewal, it would mean a lowering of costs to both keepers and local authorities than retaining the current licensing system as it is.

7.6 The requirement to licence and inspect animals is sufficiently flexible to allow a proportionate level of enforcement action, such as risk-based inspection and focus on new licencees. But this wouldn't impose routine administration on lower-risk keepers where this is unnecessary. This lighter-touch scheme, removing the mandatory requirement for inspections for every licence issued, is more likely to encourage buy-in and compliance from animal keepers.

7.7 Other relevant regulatory regimes would still potentially be available if appropriate in the event of problems (e.g. statutory nuisances, ASBOs etc). However, unlike if the Act were entirely repealed, these would only be required as back up or to cover problems from less dangerous non-controlled species.

7.8 This option could assist in the enforcement of other related legislation such as the Animal Welfare Act 2006 (the "AWA"), where local authorities also have an enforcement and inspection role. Any animal welfare concerns noted on inspection could be passed on to the enforcement authorities responsible for animal welfare legislation and inspections under the AWA carried out by local authorities could be coordinated with inspections under the Act where possible.

7.9 A drawback of the option would be that this would allow a lesser level of precautionary routine control over all dangerous wild animal keepers than the current system, though this routine inspection regime is not considered proportionate to the real threat.

Benefits

Application fees

7.10 The Act states that licence applications shall be *'accompanied by such fee as the local authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application)'*. Local authorities are therefore responsible for setting the fees which will be charged so that they can recover their overall costs.

7.11 The IZVG study in 2001 obtained information on charges for licence applications under the Act made by 180 local authorities. The way the licence fees are calculated varies between the local authorities. Most charge a flat fee, either including or excluding vet fees. Others have developed a tiered system, charging more for an initial licence than a renewed licence, or charging more to license a large collection of animals than for an individual animal. It also appeared that some authorities provided a reduced fee to animal rescue facilities.

- ***Average fee charged (based on 180 LAs) £131***

Based on this information, in 2000, on average an applicant might expect a total fee of between £100 and £150 for annual licensing. However, IZVG's survey also revealed that the lowest fee charged was £25 plus vet's fees and the highest fee charged was £525. Responses to the public consultation in 2004 included reports of local authority charges for licences ranging from £46.50 to an unconfirmed report of over £1,000.

7.12 To provide more recent figures Defra collated information on licence fees from local authorities via a questionnaire contained in the last consultation in 2008. 12 authorities responded and:

- ***Average fee charged (based on 12 LAs) £185***

In 2007 the smallest charge was £59 and the highest was £402, however this was a small sample given the number of local authorities there are and it is certain that some will charge more for licences.

7.13 In addition to the figures received on licence fees we sought similar information on vets fees (the average licence fee referred to above does not include vets fees). The average fee, based on the returned questionnaires, was £105. Therefore in 2007, including vets fees, we estimate that on average an applicant might expect a total fee in the region of £290 for annual licensing. There will, however, be variation between different local authorities.

Application time

7.14 As well as incurring the application fee, keepers also face the cost of their time in completing the application. For the purposes of completing the Impact Assessment we have assumed an average application completion time of 30 minutes and, using the population of 375 (based on the survey of keepers in 2000) this gives an indicative collective administrative burden for keepers of £4,000 for form completion. The proposed simplification detailed in the proposals – to increase the licence period validity to two years – would lead to a reduction in burden of 50%, some £2,000. See Section 8 for further detail on the administrative burdens.

Cost savings

7.15 The benefits of the preferred option can be shown as the estimated cost savings outlined in Table 1. Reforming in this way means licences only need to be applied for every two years. This halves the average annual costs in collective application fees to £54,375, giving a saving per applicant of £145 per year. Over an appraisal period of 4 years the total cost saving will provide a present value benefit of approximately £203,159. This figure increases to £229,313 when savings from reduced

application filling and inspection attendance are factored in, details can be found in Section 8 below.

7.16 This may be an underestimate, as there could be cost savings to local authorities from less frequent licence processing and inspections. However, this is likely to be to a limited extent, as the general principle is to aim for full cost recovery, so local authorities will face fewer costs, but with correspondingly fewer application fees. The divergence of fee structure between local authorities makes this difficult to assess, plus fees may change after policy implementation. Public liability insurance is also excluded as this will vary with the animal kept and the numbers involved, but would remain constant under both options.

7.17 The cost comparisons rely on the following assumptions:

- The licence fee, including inspection costs, is £290 – which is the current average
- The new life of a licence would be 24 months
- Licence applications take an average of half an hour of keepers time
- Inspections take an average of an hour and a quarter of keepers time
- The licence costs would remain the same following amendments to the existing Act
- The number of licences issued per year would be 375 – based on the IZVG's survey in 2000
- No "new" applicants apply – or this is netted off with the loss of existing applicants. In reality there may be some licences issued in intermediary years e.g. 2010
- A discount rate of 3.5%.

Table 1: Total cost of licences to keepers, £

	2009	2010	2011	2012	Total
Option 1					
Application fees	108,750	108,750	108,750	108,750	**435,000**
Application time	4,000	4,000	4,000	4,000	**16,000**
Inspection time	10,000	10,000	10,000	10,000	**40,000**
Option 2					
Application fees	108,750		108,750		**217,500**
Application time	4,000		4,000		**8,000**
Inspection time	10,000		10,000		**20,000**
Cost savings of Option 2	**0**	**122,750**	**0**	**122,750**	**245,500**
PV of cost savings	**0**	**118,599**	**0**	**110,714**	**229,313**

[It should be noted that a licence could be issued for more than one animal]

Costs

7.18 The potential for increased risk to public safety (paragraphs 7.8 and 7.9) following the proposed amendments is hard to quantify. There have been very few reported cases of dangerous wild animals escaping and we don't anticipate it changing significantly. It is to the owners' benefit to ensure that their, sometimes costly, animals are housed in secure accommodation so they do not escape and owners have to satisfy the local authority that accommodation is secure in order to obtain a licence.

7.19 There may be some concerns that by removing the mandatory requirement for inspections upon every renewal of a licence the controls are lessened, but this course of action will only happen in certain cases (e.g. where someone already has a licence, so has been inspected previously, applies for the same or similar species on the renewal, similar licence conditions are to be applied and the local authority is happy that the grant of a licence wont be contrary to the public interest), not for all renewals. In addition the local authority has the ability to check accommodation at any

time if it has concerns. Overall then, we don't anticipate an increase in animal escapes. None of the local authorities who completed the questionnaire in the last consultation reported any escapes of animals in the last three years.

NPV

7.20 The benefits of the preferred option are very likely to outweigh any costs. Benefits will be provided through cost savings to both keepers and possibly local authorities. No costs can be monetised, but the only potential cost would appear to be the possibility of increased risk to the public and this has been addressed in the previous two paragraphs.

8. Administrative burden on keepers

Applications

8.1 As considered in the cost benefit analysis there are administrative costs involved for keepers i.e. the time taken (and ensuing cost) of actually completing the application form. The reduction in collective administrative burden is estimated to be £2000 per year on average. We have assumed an application completion time of half an hour but we have little information on the overall costs to keepers in this respect.

8.2 The Act's licensing regime is administered by over 400 local authorities and different authorities place differing weights of importance to this piece of legislation. Subsequently it is very difficult to gauge how proactive these authorities are in respect to licensing, including the amount of guidance they produce about the Act or about the completion of the application. In addition there is no standard application form, subsequently the information requested and the length of time for keepers to complete the forms is not known.

Inspections

8.3 There is another burden on keepers, that of being available and accompanying inspectors when premises are required to be inspected. Currently inspections are required when someone first applies for a licence and at the time of renewal (currently on a yearly basis). From responses to the consultation we can take an average time of an hour and a quarter for an inspection and, using the population of 375 (based on the survey of keepers in 2000), this gives an indicative collective administrative burden for keepers of £10,000 for attending inspections each year.

8.4 The proposed simplification detailed in the proposals – to increase the licence period validity to two years – would lead to a reduction in burden of 50%, giving an average saving of £5,000 per year. This would give an overall saving per applicant, on application fees, application completion time and reduced inspection time at licence issue, of £164 per year. Over an appraisal period of 4 years the total cost saving will provide a present value benefit of approximately £229,313.

8.5 The impact on the Admin Burdens Baseline, to include those savings identified above in reduced time completing applications and attending inspections, equates to a decrease of £7,000 – reduced further, to allow for inflation between 2005 and 2007 – to a figure of £6647 as shown at the foot of page 2 of this impact assessment.

8.6 One of the provisions in the preferred option is to remove, in certain circumstances, the mandatory requirement for inspections upon *every* renewal of a licence and it is envisaged that there would be some reduction in administration costs for keepers here as well. This saving is not quantifiable as it is not known whether local authorities will use this discretion in view of the fact that licences are going to be valid for two years. They may feel that an inspection is required after this amount of time and continue to inspect on renewal. Also, the figures do not include the time taken to attend any ad-hoc inspections which the local authority may authorise during the validity of the licence.

Compliance

8.7 The "new burden" or costs to keepers who are currently acting outside of the law and now decide to comply and seek licences for their animals have not been included in this assessment.

9. Competition Assessment

9.1 The intended proposals are unlikely to affect competition between businesses involved in selling or keeping of dangerous wild animals. The provisions will apply across the board and, if anything, are

likely to aid smaller organisations more, as licence fees may represent a proportionately larger outgoing for them.

10. Small Business Impact Test

10.1 The legislation is primarily aimed at private animal keepers and exempts many commercial keepers such as pet shops, zoos, circuses and scientific establishments. However, some small businesses such as farms, are affected by the legislation. Appropriate representative organisations have been consulted during the Act's review and have consistently supported revision of the legislation to make it less burdensome and the new proposals will help reduce the administrative burden on them.

10.2 It is confidently expected that small businesses will welcome the changes that will make the Act more credible and proportionate, and which aim to reduce burdens to the minimum consistent with meeting the legislation's objectives.

11. Enforcement, Sanctions and Monitoring

Enforcement

11.1 Local authorities will remain responsible for enforcement of the legislation. Enforcement is likely to be more effective if the legislation is more risk-based, requiring less routine inspection and allowing for more targeting of situations where there are concerns or where the risk is perceived to be higher. The 2007 revision of the Schedule of species (where some 30 plus species were removed from control) will also assist by ensuring that only those species deemed sufficiently dangerous to warrant regulation under the Act are listed.

11.2 Reform of the legislation should assist with buy-in from keepers, encouraging an improved level of compliance. Clubs and keeper organisations are also more likely to require compliance with the Act as a condition of membership if the Act is more credible. This level of self-regulation will support local authority enforcement.

Sanctions

11.3 The general requirement to be licensed to keep dangerous wild animals will be retained along with all the other current provisions of the Act including; the offences, penalties, existing standard licence conditions, and powers to seize unlawfully held dangerous animals. This will ensure that the necessary protections of the Act are retained but no further sanctions imposed.

Monitoring

11.4 A review of the new provisions, to see whether they are meeting the original objective to reduce administrative burdens and improve compliance with the Act, will be undertaken after four years. This will allow time for the new process to bed in and cover two licensing periods. It is likely that the questionnaires contained in the latest consultation package will again be used and comparisons made between each of the three year periods i.e. pre-amendment to the Act and post-amendment. Defra will lead on this exercise.

11.5 Defra will also seek feedback from affected stakeholders, by electronic means through amendment of relevant web pages, to gauge the affects, positive or negative, of the new provisions and will also seek comment on the published guidance for local authorities which will be produced. The guidance is likely to be a "living document" which can be revised and updated where circumstances require it.

12. Implementation and delivery plan

12.1 These changes will be implemented by an affirmative Statutory Instrument (SI) which Defra will be responsible for preparing. The outline timetable is below;

- Finalise Summary of Responses - March 2009
- Issue guidance for local authorities - July 2009
- Statutory Instrument comes into force - October 2009

13. Post-implementation review

13.1 The local authorities and other key stakeholders, such as the RSPCA and keeper groups, will want to monitor the effectiveness of any new legislation. We will need to consider how best to evaluate it once it has had time to bed down, but will commit to a review after four years. The number of licences issued by local authorities as well as their geographic spread (possibly reflecting increased compliance), whether the number of inspections undertaken has reduced (with a related reduction in costs for keepers), the number of prosecutions and public awareness of the controls are all potential measures.

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Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	**Yes**	**No**
Small Firms Impact Test	**Yes**	**No**
Legal Aid	**No**	**Yes**
Sustainable Development	**No**	**Yes**
Carbon Assessment	**No**	**Yes**
Other Environment	**No**	**Yes**
Health Impact Assessment	**No**	**Yes**
Race Equality	**No**	**Yes**
Disability Equality	**No**	**Yes**
Gender Equality	**No**	**Yes**
Human Rights	**No**	**Yes**
Rural Proofing	**No**	**Yes**

Annexes

Outcome of Impact Tests not referred to in the Evidence Base

Legal Aid

The proposals do not create any new criminal sanctions or civil penalties, those currently contained in the Act will be retained.

Sustainable Development

The proposals will have very little impact on sustainable development.

Carbon Impact Assessment

The proposals will have no significant effect on carbon emissions.

Other Environmental

The proposals have little or no implications in relation to climate change, waste management, air quality, landscapes, water and floods, habitat or noise pollution.

Health Impact Assessment

The proposals will not directly impact on health or well being and will not result in health inequalities.

Race /Disability/Gender

There are no limitations on meeting the requirements of the proposals on the grounds of race, disability or gender. The proposals do not impose any restriction or involve any requirement with which a person of a particular racial background, disability or gender would find it difficult to comply. Conditions apply equally to all individuals and businesses involved in the activities covered by the proposals.

Human Rights

The proposals are consistent with the Human Rights Act 1998.

Rural Proofing

The proposals will not have a different impact in rural areas.

Annex B – List of consultees

- All local authorities in England and Wales
- Animal Aid
- Animal Health
- Animal Health Trust
- Animal Welfare Inspection Services
- Association of Chief of Police Officers
- Association of British Wild Animal Keepers
- Association of Circus Proprietors of Great Britain
- Association of Local Government Ecologists
- Banham Zoo Ltd
- Born Free Foundation
- Bristol Zoo Gardens
- British Alpaca Society Ltd
- British Camelids Society
- British Domesticated Ostrich Association
- British and Irish Association of Zoos and Aquariums
- British Pig Association
- British Small Animal Veterinary Association
- British Veterinary Association
- British Veterinary Camelid Society
- British Veterinary Zoological Society
- British Wild Boar Association
- Captive Animals Protection Society (CAPS)
- Cats Protection League
- Chartered Institute of Environmental Health
- Chester Zoo
- Circus Arts Forum
- Circus Society
- Colchester Zoo
- Companion Animals Welfare Council
- Country Land & Business Association
- Countryside Alliance
- Department for Business, Enterprise and Regulatory Reform
- Department for Communities and Local Government
- Department of Environment Northern Ireland
- Dog Breeders Association
- Durrell Wildlife Conservation Trust
- EAZA Executive Office
- Exotic Animal & Ophthalmic Referral Centre
- Farm Animal Welfare Council
- Farm Animal Welfare Network
- Farming and Wildlife Advisory Group
- Federation of British Herpetologists
- Federation of Companion Animals Societies
- Feline Advisory Bureau

- Game Conservancy Trust
- Governing Council of the Cat Fancy
- Health & Safety Executive
- Herpetological Society
- Home Office (Policing & Crime Reduction Group)
- International Fund for Animal Welfare (IFAW)
- International Herpetological Society
- International Zoo Veterinary Group
- Kennel Club
- Lansdown Veterinary Services
- Local Authority Coordinators of Regulatory Services
- Local Government Association
- Mammal Society
- Marwell Zoological Park
- Monkey Sanctuary Trust
- National Animal Welfare Trust
- National Association of Private Animal Keepers (NAPAK)
- National Consumer Council
- National Farmers Union
- National Farmers Union (Wales)
- National Marine Aquarium
- National Office of Animal Health
- Natural England
- Newquay Zoo
- Nuffield Department of Clinical Medicine
- Ornamental Aquatic Trade Association (OATA)
- Oxford University
- Pet Advisory Committee
- Pet Care Trust
- Pet Health Council
- Planning and Environment Bar Association
- Prevent Unwanted Pets
- Protect Our Wild Animals
- Ramblers' Association
- Reptile and Exotic Pet Trade Association
- Royal College Of Veterinary Surgeons
- Royal Society for the Protection of Birds
- Royal Society for the Prevention of Cruelty to Animals
- Small Business Service
- Strathmore Veterinary Clinic
- Sustainable Users Network
- Thrigby Hall Wildlife Gardens
- United Kingdom Environmental Law Association
- Universities Federation for Animal Welfare
- Welsh Assembly Government
- Welsh Local Government Association
- Welsh Mountain Zoo

- Wildlife & Countryside Link
- Wildlife Health Services
- Zoo and Aquatic Veterinary Group
- Zoological Society of London
- Zoological Society of Wales
- Zoovet International Ltd

Annex C – List of respondents to the consultation

- Animal Aid
- Association of British/Irish Wild Animal Keepers
- Association of Chief Police Officers
- Association of Circus Proprietors of Great Britain
- Born Free Foundation
- British and Irish Association of Zoos and Aquariums
- British Small Animal Veterinary Association
- British Veterinary Zoological Society
- Farm Animal Welfare Council
- International Fund for Animal Welfare
- Kennel Club
- Keeper – Confidential Responder
- Monkey Sanctuary Trust
- National Marine Aquarium
- Natural England
- Naturally Wild Consultants Limited
- Pet Care Trust
- Royal College of Veterinary Surgeons
- Royal Society for the Prevention of Cruelty to Animals
- Strathmore Veterinary Clinic
- Vegetarian Economy and Green Agriculture
- Chris Weller – Keeper

The following local authorities also responded:

- Basildon District Council
- Brentwood Borough Council
- Bristol City Council
- Cardiff Council
- East Hampshire District Council
- Epsom & Ewell Borough Council
- Flintshire County Council
- Harrogate Borough Council
- London Borough of Redbridge
- London Borough of Southwark
- Northampton Borough Council
- North Somerset Council
- Rotherham Borough Council
- South Norfolk Council
- South Oxfordshire District Council
- Welwyn Hatfield Council
- Wychavon District Council

Annex D – Consolidated copy of the Dangerous Wild Animals Act 1976

The Dangerous Wild Animals Act 1976

consolidated text of the Act as it applies (by virtue of section 6(2) and the Schedule: different versions apply in Scotland) to England and Wales, prior to its anticipated amendment by

(*in draft*) **The Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009**

Certified as accurate as at 2nd June, 2009: S.D. Croft *DEFRA Legal Dept.*

Dangerous Wild Animals Act 1976

1976 CHAPTER 38

An Act to regulate the keeping of certain kinds of dangerous wild animals. [22nd July 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Licences

1.— (1) Subject to section 5 of this Act, no person shall keep any dangerous wild animal except under the authority of a licence granted in accordance with the provisions of this Act by a local authority.

(2) A local authority shall not grant a licence under this Act unless an application for it—

(a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;

(b) specifies the premises where any animal concerned will normally be held;

(c) is made to the local authority in whose area those premises are situated;

(d) is made by a person who is neither under the age of 18 nor disqualified under this Act from keeping any dangerous wild animal; and

(e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).

(3) A local authority shall not grant a licence under this Act unless it is satisfied that—

(a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;

(b) the applicant for the licence is a suitable person to hold a licence under this Act;

(c) any animal concerned will at all times of its being kept only under the authority of the licence—

(i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

(ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;

(d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;

(e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;

(f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

(4) A local authority shall not grant a licence under this Act unless the application for it is made by a person who both owns and possesses, or proposes both to own and to possess, any animal concerned, except where the circumstances are in the authority's opinion exceptional.

(5) A local authority shall not grant a licence under this Act unless a veterinary surgeon or veterinary practitioner authorised by the authority to do so under section 3 of this Act has inspected the premises where any animal will normally be held in pursuance of the licence and the authority has received and considered a report by the surgeon or practitioner, containing such particulars as in the authority's opinion enable it to decide whether the premises are such that any animal proposed to be kept under the authority of the licence may suitably be held there, and describing the condition of the premises and of any animal or other thing found there.

(6) Subject to subsections (2) to (5) of this section, a local authority may grant or refuse a licence under this Act as it thinks fit, but where it decides to grant such a licence it shall specify as conditions of the licence—

(a) conditions that, while any animal concerned is being kept only under the authority of the licence,—

(i) the animal shall be kept by no person other than such person or persons as is or are specified (whether by name or description) in the licence;

(ii) the animal shall normally be held at such premises as are specified in the licence;

(iii) the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;

(iv) the person to whom the licence is granted shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and

(v) the terms of any such policy shall be satisfactory in the opinion of the authority;

(b) conditions restricting the species (whether one or more) of animal, and number of animals of each species, which may be kept under the authority of the licence;

(c) a condition that the person to whom the licence is granted shall at all reasonable times make available a copy of the licence to any person entitled to keep any animal under the authority of the licence;

(d) such other conditions as in the opinion of the authority are necessary or desirable for the purpose of securing the objects specified in paragraphs (c) to (f) of subsection (3) of this section.

(7) Subject to subsection (6) of this section, a local authority may, in granting a licence under this Act, specify such conditions of the licence as it thinks fit.

(8) Where a local authority proposes to insert in a licence under this Act a provision permitting any animal to be, for any continuous period exceeding 72 hours, at premises outside the area of the authority, the authority shall consult the local authority in whose area those premises are situated.

(9) A local authority which grants a licence under this Act may at any time vary the licence by specifying any new condition of the licence or varying or revoking any condition of it (including any condition specified, or previously varied, under this subsection); but any condition of a licence specified by virtue of subsection (6) of this section may not be revoked and any condition specified by virtue of paragraph (a)(ii) of that subsection may not be varied.

(10) Where a local authority varies a licence under subsection (9) of this section, then—

(a) if the variation was requested by the person to whom the licence was granted, the variation shall take effect immediately after the authority decides to make it;

(b) in any other case, the variation shall not take effect until the person to whom the licence was granted has become aware of the variation and had a reasonable time to comply with it.

Provisions supplementary to section 1

2.— (1) Where—

(a) a person is aggrieved by the refusal of a local authority to grant a licence under this Act, or

(b) a person to whom such a licence has been granted is aggrieved by a condition of the licence (whether specified at the time the licence is granted or later) or by the variation or revocation of any condition of the licence,

he may appeal to a magistrates' court; and the court may on such appeal give such directions with respect to the grant of a licence or, as the case may be, with respect to the conditions of the licence as it thinks proper, having regard to the provisions of this Act.

(2) Any licence under this Act shall (according to the applicant's requirements) relate to the calendar year in which it is granted or to the next following year.

In the former case, the licence shall come into force at the beginning of the day on which it is granted, and in the latter case it shall come into force at the beginning of the next following year.

(3) Subject to the provisions hereinafter contained with respect to cancellation, any licence under this Act shall remain in force until the end of the year to which it relates and shall then expire:

Provided that if application is made for a further licence before the said date of expiry the licence shall be deemed to be still in force pending the grant or refusal of the said application, and if it is granted the new licence shall commence from the date of the expiry of the last licence.

(4) In the event of the death of anyone to whom a licence has been granted under this Act the said licence shall continue in force for a period of twenty-eight days as if it had been granted to the personal representatives of the deceased and if application is made for a new licence within the said period the said licence shall be deemed to be still in force pending the grant or refusal of that application.

(5) Any person who contravenes the provisions of section 1(1) of this Act shall be guilty of an offence.

(6) If any condition of a licence under this Act is contravened or not complied with, then,—

(a) the person to whom the licence was granted, and

(b) any other person who is entitled to keep any animal under the authority of the licence and who was primarily responsible for the contravention or failure to comply,

shall, subject to subsection (7) of this section, be guilty of an offence.

(7) In any proceedings for an offence under subsection (6) of this section, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) In the application of this section to Scotland, in subsection (1) for any reference to a magistrates' court there shall be substituted a reference to the sheriff.

Inspection by local authority

3.— (1) Subject to subsection (2) of this section, a local authority to which an application has been made for a licence under this Act, or which has granted such a licence, may authorise in writing any veterinary surgeon or veterinary practitioner or such other person as it may deem competent to do so to inspect any premises where any animal is proposed to be held in pursuance of a licence for which an application has been made under this Act, or where any animal is or may be held in pursuance of a licence which has been granted under this Act; and any persons authorised under this section may, on producing their authority if so required, enter any such premises at all reasonable times and inspect them and any animal or other thing found there, for the purpose of ascertaining whether or not a licence should be granted or varied or whether an offence has been or is being committed against this Act.

(2) A local authority shall not give an authority under subsection (1) of this section to inspect premises situated outside its area unless it has obtained the approval of the local authority in whose area those premises are situated.

(3) The local authority may require the person who has applied for a licence under this Act or, as the case may be, to whom the licence concerned has been granted under this Act to pay the local authority the reasonable costs of the inspection.

(4) Any person who wilfully obstructs or delays any person in the exercise of his power of entry or inspection under this section shall be guilty of an offence.

Power to seize and to dispose of animals without compensation

4.— (1) Where—

(a) an animal is being kept contrary to section 1(1) of this Act, or

(b) any condition of a licence under this Act is contravened or not complied with,

the local authority in whose area any animal concerned is for the time being may seize the animal, and either retain it in the authority's possession or destroy or otherwise dispose of it, and shall not be liable to pay compensation to any person in respect of the exercise of its powers under this subsection.

(2) A local authority which incurs any expenditure in exercising its powers under subsection (1)(*a*) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from any person who was at the time of the seizure a keeper of the animal concerned.

(3) A local authority which incurs any expenditure in exercising its powers under subsection (1)(*b*) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from the person to whom the licence concerned was granted.

Exemptions

5. The provisions of this Act shall not apply to any dangerous wild animal kept in:—

(1) a zoo within the meaning of the Zoo Licensing Act 1981 for which a licence is in force (or is not for the time being required) under that Act;

(2) a circus;

(3) premises licensed as a pet shop under the Pet Animals Act 1951;

(4) a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986.

Penalties

6.— (1) Any person guilty of an offence under any provision of this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where a person is convicted of any offence under this Act or of any offence under the Protection of Animals Act 1911, the Protection of Animals (Scotland) Acts 1912 to 1964, the Performing Animals (Regulation) Act 1925, the Pet Animals Act 1951, the Animals (Cruel Poisons) Act 1962, the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, or the Breeding of Dogs Act 1973, or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006, the court by which he is convicted may cancel any licence held by him under this Act, and may, whether or not he is the holder of such a licence, disqualify him from keeping any dangerous wild animal for such period as the court thinks fit.

(3) A court which has ordered the cancellation of a person's licence, or his disqualification, in pursuance of the last foregoing subsection may, if it thinks fit, suspend the operation of the order pending an appeal.

Interpretation

7.— (1) Subject to subsection (2) of this section, for the purposes of this Act a person is a keeper of an animal if he has it in his possession; and if at any time an animal ceases to be in the possession of a person, any person who immediately before that time was a keeper

thereof by virtue of the preceding provisions of this subsection continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of those provisions.

(2) Where an animal is in the possession of any person for the purpose of—

(a) preventing it from causing damage,

(b) restoring it to its owner,

(c) undergoing veterinary treatment, or

(d) being transported on behalf of another person,

the person having such possession shall not by virtue only of that possession be treated for the purposes of this Act as a keeper of the animal.

(3) In this Act expressions cognate with "keeper" shall be construed in accordance with subsections (1) and (2) of this section.

(4) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"circus" includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres;

"damage" includes the death of, or injury to, any person;

"dangerous wild animal" means any animal of a kind for the time being specified in the first column of the Schedule to this Act;

"local authority" means in relation to England a district council, a London borough council or the Common Council of the City of London, in relation to Wales, a county council or county borough council, and, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

"premises" includes any place;

"veterinary practitioner" means a person who is for the time being registered in the supplementary veterinary register;

"veterinary surgeon" means a person who is for the time being registered in the register of veterinary surgeons.

(5) The second column of the Schedule to this Act is included by way of explanation only; in the event of any dispute or proceedings, only the first column is to be taken into account.

Power of Secretary of State to modify the Schedule

8.— (1) If the Secretary of State is satisfied that the scope of this Act should be extended so as to include animals of a kind not for the time being specified in the Schedule to this Act or diminished so as to exclude animals of a kind for the time being specified in that Schedule, he may by order make the necessary modifications to that Schedule and any such order may be revoked by a subsequent order under this subsection.

(2) The power conferred by the foregoing subsection on the Secretary of State shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Protection of existing keepers

9. Notwithstanding anything in this Act, a person who immediately before the date of the commencement of this Act was keeping a dangerous wild animal at any premises and who is not disqualified as mentioned in section 6(2) of this Act, shall be entitled to keep such animal at those premises without a licence under this Act—

(a) for the period of 90 days beginning with that date; and

(b) if before the expiration of that period he applies for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn.

Short title, commencement and extent

10.— (1) This Act may be cited as the Dangerous Wild Animals Act 1976.

(2) This Act shall come into operation at the expiration of a period of three months beginning with the date on which it is passed.

(3) This Act does not extend to Northern Ireland.

Annex E – Pre-consolidated copy of the Dangerous Wild Animals Act 1976

(with deletions and insertions highlighted for ease of reference)

Dangerous Wild Animals Act 1976 *as it applies (by virtue of section 6(2) and the Schedule: different versions of which apply in Scotland) to England and Wales*

(*draft*)**The Legislative Reform (Dangerous Wild Animals) (Licensing) Order 2009** ("the Order")

The Order affects only sections 1 and 2 of the Act (as applicable to England and Wales)

Text to be deleted by the Order is shown as follows: [*italics*]

Text to be inserted by the Order is shown in **bold**

Certified as accurate as at 2nd June, 2009: S.D. Croft *DEFRA Legal Dept.*

Dangerous Wild Animals Act 1976

1976 CHAPTER 38

An Act to regulate the keeping of certain kinds of dangerous wild animals. [22nd July 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Licences

1.— (1) Subject to section 5 of this Act, no person shall keep any dangerous wild animal except under the authority of a licence granted in accordance with the provisions of this Act by a local authority.

(2) A local authority shall not grant a licence under this Act unless an application for it—

(a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;

(b) specifies the premises where any animal concerned will normally be held;

(c) is made to the local authority in whose area those premises are situated;

(d) is made by a person who is neither under the age of 18 nor disqualified under this Act from keeping any dangerous wild animal; and

(e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).

(3) A local authority shall not grant a licence under this Act unless it is satisfied that—

(a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;

(b) the applicant for the licence is a suitable person to hold a licence under this Act;

(c) any animal concerned will at all times of its being kept only under the authority of the licence—

(i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

(ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;

(d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;

(e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;

(f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

(4) A local authority shall not grant a licence under this Act unless the application for it is made by a person who both owns and possesses, or proposes both to own and to possess, any animal concerned, except where the circumstances are in the authority's opinion exceptional.

(5) **Subject to subsection (5A) of this section, a local authority [***A local authority*] shall not grant a licence under this Act unless a veterinary surgeon or veterinary practitioner authorised by the authority to do so under section 3 of this Act has inspected the premises where any animal will normally be held in pursuance of the licence and the authority has received and considered a report by the surgeon or practitioner, containing such particulars as in the authority's opinion enable it to decide whether the premises are such that any animal proposed to be kept under the authority of the licence may suitably be held there, and describing the condition of the premises and of any animal or other thing found there.

(5A) Subsection (5) of this section does not apply where—

(a) a person holds a licence under this Act which is in force ("the existing licence");

(b) that person applies for a new licence which is not to specify any species which—

(i) is not specified in the existing licence, or

(ii) is not in the family of a species so specified;

(c) the conditions of the new licence as regards the keeping of any animal concerned are to be substantially the same as those contained in the existing licence; and

(d) the local authority is satisfied that the grant of the new licence is not contrary to the public interest on the grounds of safety, nuisance or otherwise.

(6) Subject to subsections (2) to (5) of this section, a local authority may grant or refuse a licence under this Act as it thinks fit, but where it decides to grant such a licence it shall specify as conditions of the licence—

(a) conditions that, while any animal concerned is being kept only under the authority of the licence,—

(i) the animal shall be kept by no person other than such person or persons as is or are specified (whether by name or description) in the licence;

(ii) the animal shall normally be held at such premises as are specified in the licence;

(iii) the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;

(iv) the person to whom the licence is granted shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and

(v) the terms of any such policy shall be satisfactory in the opinion of the authority;

(b) conditions restricting the species (whether one or more) of animal, and number of animals of each species, which may be kept under the authority of the licence;

(c) a condition that the person to whom the licence is granted shall at all reasonable times make available a copy of the licence to any person entitled to keep any animal under the authority of the licence;

(d) such other conditions as in the opinion of the authority are necessary or desirable for the purpose of securing the objects specified in paragraphs (c) to (f) of subsection (3) of this section.

(7) Subject to subsection (6) of this section, a local authority may, in granting a licence under this Act, specify such conditions of the licence as it thinks fit.

(8) Where a local authority proposes to insert in a licence under this Act a provision permitting any animal to be, for any continuous period exceeding 72 hours, at premises outside the area of the authority, the authority shall consult the local authority in whose area those premises are situated.

(9) A local authority which grants a licence under this Act may at any time vary the licence by specifying any new condition of the licence or varying or revoking any condition of it (including any condition specified, or previously varied, under this subsection); but any condition of a licence specified by virtue of subsection (6) of this section may not be revoked and any condition specified by virtue of paragraph (a)(ii) of that subsection may not be varied.

(10) Where a local authority varies a licence under subsection (9) of this section, then—

(a) if the variation was requested by the person to whom the licence was granted, the variation shall take effect immediately after the authority decides to make it;

(b) in any other case, the variation shall not take effect until the person to whom the licence was granted has become aware of the variation and had a reasonable time to comply with it.

Provisions supplementary to section 1

2.— (1) Where—

(a) a person is aggrieved by the refusal of a local authority to grant a licence under this Act, or

(b) a person to whom such a licence has been granted is aggrieved by a condition of the licence (whether specified at the time the licence is granted or later) or by the variation or revocation of any condition of the licence,

he may appeal to a magistrates' court; and the court may on such appeal give such directions with respect to the grant of a licence or, as the case may be, with respect to the conditions of the licence as it thinks proper, having regard to the provisions of this Act.

[*(2) Any licence under this Act shall (according to the applicant's requirements) relate to the calendar year in which it is granted or to the next following year.*

In the former case, the licence shall come into force at the beginning of the day on which it is granted, and in the latter case it shall come into force at the beginning of the next following year.]

[*(3) Subject to the provisions hereinafter contained with respect to cancellation, any licence under this Act shall remain in force until the end of the year to which it relates and shall then expire:*

Provided that if application is made for a further licence before the said date of expiry the licence shall be deemed to be still in force pending the grant or refusal of the said application, and if it is granted the new licence shall commence from the date of the expiry of the last licence.]

(2) Subject to subsection (3A)(a) of this section, any licence under this Act shall come into force immediately upon being granted.

(3) Subject to subsection (3A)(b) of this section and the provisions of this Act with respect to cancellation, any licence granted under this Act shall remain in force for two years and shall then expire:

(3A) Where, before the expiry of a licence granted under this Act ("the existing licence"), an application is made for a licence to be granted by way of renewal of the existing licence—

- **(a) if a licence is so granted, it shall come into force from the date of expiry of the existing licence, whether it is granted before, on or after that date;**
- **(b) if the grant or refusal of that application occurs after the date of expiry of the existing licence, the existing licence shall be deemed to be still in force until the grant or refusal.**

(3B) For the purposes of subsection (3A) of this section, a licence is not granted by way of renewal of an existing licence unless it is granted in respect of any species in respect of which the existing licence was granted (whether or not either licence also relates to some other species).

(4) In the event of the death of anyone to whom a licence has been granted under this Act the said licence shall continue in force for a period of twenty-eight days as if it had been granted to the personal representatives of the deceased and if application is made for a new licence within the said period the said licence shall be deemed to be still in force pending the grant or refusal of that application.

(5) Any person who contravenes the provisions of section 1(1) of this Act shall be guilty of an offence.

(6) If any condition of a licence under this Act is contravened or not complied with, then,—

(a) the person to whom the licence was granted, and

(b) any other person who is entitled to keep any animal under the authority of the licence and who was primarily responsible for the contravention or failure to comply,

shall, subject to subsection (7) of this section, be guilty of an offence.

(7) In any proceedings for an offence under subsection (6) of this section, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) In the application of this section to Scotland, in subsection (1) for any reference to a magistrates' court there shall be substituted a reference to the sheriff.

Inspection by local authority

3.— (1) Subject to subsection (2) of this section, a local authority to which an application has been made for a licence under this Act, or which has granted such a licence, may authorise in writing any veterinary surgeon or veterinary practitioner or such other person as it may deem competent to do so to inspect any premises where any animal is proposed to be held in pursuance of a licence for which an application has been made under this Act, or where any animal is or may be held in pursuance of a licence which has been granted under this Act; and any persons authorised under this section may, on producing their authority if so required, enter any such premises at all reasonable times and inspect them and any animal or other thing found there, for the purpose of ascertaining whether or not a licence should be granted or varied or whether an offence has been or is being committed against this Act.

(2) A local authority shall not give an authority under subsection (1) of this section to inspect premises situated outside its area unless it has obtained the approval of the local authority in whose area those premises are situated.

(3) The local authority may require the person who has applied for a licence under this Act or, as the case may be, to whom the licence concerned has been granted under this Act to pay the local authority the reasonable costs of the inspection.

(4) Any person who wilfully obstructs or delays any person in the exercise of his power of entry or inspection under this section shall be guilty of an offence.

Power to seize and to dispose of animals without compensation

4.— (1) Where—

(a) an animal is being kept contrary to section 1(1) of this Act, or

(b) any condition of a licence under this Act is contravened or not complied with,

the local authority in whose area any animal concerned is for the time being may seize the animal, and either retain it in the authority's possession or destroy or otherwise dispose of it, and shall not be liable to pay compensation to any person in respect of the exercise of its powers under this subsection.

(2) A local authority which incurs any expenditure in exercising its powers under subsection (1)(*a*) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from any person who was at the time of the seizure a keeper of the animal concerned.

(3) A local authority which incurs any expenditure in exercising its powers under subsection (1)(*b*) of this section shall be entitled to recover the amount of the expenditure summarily as a civil debt from the person to whom the licence concerned was granted.

Exemptions

5. The provisions of this Act shall not apply to any dangerous wild animal kept in:—

(1) a zoo within the meaning of the Zoo Licensing Act 1981 for which a licence is in force (or is not for the time being required) under that Act;

(2) a circus;

(3) premises licensed as a pet shop under the Pet Animals Act 1951;

(4) a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986.

Penalties

6.— (1) Any person guilty of an offence under any provision of this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where a person is convicted of any offence under this Act or of any offence under the Protection of Animals Act 1911, the Protection of Animals (Scotland) Acts 1912 to 1964, the Performing Animals (Regulation) Act 1925, the Pet Animals Act 1951, the Animals (Cruel Poisons) Act 1962, the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, or the Breeding of Dogs Act 1973, or of an offence under any of sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006, the court by which he is convicted may cancel any licence held by him under this Act, and may, whether or not he is the holder of such a licence, disqualify him from keeping any dangerous wild animal for such period as the court thinks fit.

(3) A court which has ordered the cancellation of a person's licence, or his disqualification, in pursuance of the last foregoing subsection may, if it thinks fit, suspend the operation of the order pending an appeal.

Interpretation

7.— (1) Subject to subsection (2) of this section, for the purposes of this Act a person is a keeper of an animal if he has it in his possession; and if at any time an animal ceases to be in the possession of a person, any person who immediately before that time was a keeper thereof by virtue of the preceding provisions of this subsection continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of those provisions.

(2) Where an animal is in the possession of any person for the purpose of—

(a) preventing it from causing damage,

(b) restoring it to its owner,

(c) undergoing veterinary treatment, or

(d) being transported on behalf of another person,

the person having such possession shall not by virtue only of that possession be treated for the purposes of this Act as a keeper of the animal.

(3) In this Act expressions cognate with "keeper" shall be construed in accordance with subsections (1) and (2) of this section.

(4) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"circus" includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres;

"damage" includes the death of, or injury to, any person;

"dangerous wild animal" means any animal of a kind for the time being specified in the first column of the Schedule to this Act;

"local authority" means in relation to England a district council, a London borough council or the Common Council of the City of London, in relation to Wales, a county council or county borough council, and, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

"premises" includes any place;

"veterinary practitioner" means a person who is for the time being registered in the supplementary veterinary register;

"veterinary surgeon" means a person who is for the time being registered in the register of veterinary surgeons.

(5) The second column of the Schedule to this Act is included by way of explanation only; in the event of any dispute or proceedings, only the first column is to be taken into account.

Power of Secretary of State to modify the Schedule

8.— (1) If the Secretary of State is satisfied that the scope of this Act should be extended so as to include animals of a kind not for the time being specified in the Schedule to this Act or diminished so as to exclude animals of a kind for the time being specified in that Schedule, he may by order make the necessary modifications to that Schedule and any such order may be revoked by a subsequent order under this subsection.

(2) The power conferred by the foregoing subsection on the Secretary of State shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Protection of existing keepers

9. Notwithstanding anything in this Act, a person who immediately before the date of the commencement of this Act was keeping a dangerous wild animal at any premises and who is not disqualified as mentioned in section 6(2) of this Act, shall be entitled to keep such animal at those premises without a licence under this Act—

(a) for the period of 90 days beginning with that date; and

(b) if before the expiration of that period he applies for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn.

Short title, commencement and extent

10.— (1) This Act may be cited as the Dangerous Wild Animals Act 1976.

(2) This Act shall come into operation at the expiration of a period of three months beginning with the date on which it is passed.

(3) This Act does not extend to Northern Ireland.

Annex F – The Schedule to the Dangerous Wild Animals Act 1976

SCHEDULE

Section 7

KINDS OF DANGEROUS WILD ANIMALS

NOTE: See section 7(5) of this Act for the effect of the second column of this Schedule

Scientific name of kind	*Common name or names*
MAMMALS	
Marsupials	
Family *Dasyuridae*: The species *Sarcophilus laniarius.*	The Tasmanian devil.
Family *Macropodidae:* The species *Macropus fuliginosus, Macropus giganteus, Macropus robustus* and *Macropus rufus.*	The western and eastern grey kangaroos, the wallaroo and the red kangaroo.
Primates	
Family *Cebidae:* All species except those of the genera *Aotus, Callicebus* and *Saimiri.*	New-world monkeys (including capuchin, howler, saki, uacari, spider and woolly monkeys). Night monkeys (also known as owl monkeys), titi monkeys and squirrel monkeys are excepted.
Family *Cercopithecidae:* All species.	Old-world monkeys (including baboons, the drill, colobus monkeys, the gelada, guenons, langurs, leaf monkeys, macaques, the mandrill, mangabeys, the patas and proboscis monkeys and the talapoin).
Family *Hominidae:* All species except those of the genus *Homo*.	Anthropoid apes; chimpanzees, bonobos, orang-utans and gorillas.
Family *Hylobatidae:* All species.	Gibbons and Siamangs.
Family *Indriidae:* All species of the genera *Propithecus* and *Indri (Avahi laniger* is excepted).	Leaping lemurs (including the indri and sifakas). The woolly lemur is excepted.
Family *Lemuridae*: All species except those of the genus *Hapalemur.*	Large lemurs. Bamboo or gentle lemurs are excepted.
Edentates	
Family *Dasypodidae:* The species *Priodontes maximus.*	The giant armadillo.
Family *Myrmecophagidae:* The species *Myrmecophaga tridactyla.*	The giant anteater.

Carnivores	
Family *Canidae:* All species except those of the genera *Alopex, Cerdocyon, Dusicyon, Otocyon, Pseudolopex, Urocyon, Vulpes* and *Nyctereutes*. The species *Canis familiaris*, other than the subspecies *Canis familiaris dingo*, is also excepted.	Wild dogs, wolves, jackals, the maned wolf, the bush dog and the dhole. Foxes, raccoon dogs and the domestic dog (but not the dingo) are excepted.
Family *Felidae:* All except— the species *Felis silvestris, Otocolobus manul, Leopardus tigrinus, Oncifelis geoffroyi, Oncifelis guigna, Catopuma badia, Felis margarita, Felis nigripes, Prionailurus rubiginosus* and *Felis silvestris catus*; a hybrid which is descended exclusively from any one or more species within paragraph (a); a hybrid of which— one parent is *Felis silvestris catus*, and the other parent is a first generation hybrid of *Felis silvestris catus* and any cat not within paragraph (a); any cat which is descended exclusively from any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)); any cat which is descended exclusively from *Felis silvestris catus* and any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)).	All cats including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval and tiger. The following are excepted: (a) the wild cat, the pallas cat, the little spotted cat, the Geoffroy's cat, the kodkod, the bay cat, the sand cat, the black-footed cat, the rusty-spotted cat and the domestic cat; (b) a hybrid cat which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid cat having as one parent a domestic cat and as the other parent a first generation hybrid of a domestic cat and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c); (e) any cat which is descended exclusively from a domestic cat and any one or more hybrids within paragraph (c).
Family *Hyaenidae:* All except the species *Proteles cristatus.*	Hyænas. The aardwolf is excepted.
Family *Mustelidae:* All species of the genera *Amblonyx, Arctonyx, Aonyx, Enhydra, Lontra, Melogale, Mydaus, Pteronura* and *Taxidea.* The genus *Lutra* except the species *Lutra lutra*. The species *Eira barbara, Gulo gulo, Martes pennanti* and *Mellivora capensis.*	Badgers (except the Eurasian badger), otters (except the European otter) and the tayra, wolverine, fisher and ratel (otherwise known as the honey badger).
Family *Ursidae:* All species including the species *Ailuropoda melanoleuca* and *Ailurus fulgens.*	All bears including the giant panda and the red panda.

Family *Viverridae:* All of the genus *Civettictis.* All of the genus *Viverra.* The species *Cryptoprocta ferox.*	The African, large-spotted, Malay and Indian civets and the fossa.
Pinnipedes	
Family *Odobenidae:* All species.	The walrus.
Family *Otariidae:* All species.	Eared seals.
Family *Phocidae:* All species except *Phoca vitulina* and *Halichoerus grypus.*	True or earless seals. The common seal (or harbour seal) and grey seal are excepted.
Elephants	
Family *Elephantidae:* All species.	Elephants.
Aardvark	
Family *Orycteropodidae:* The species *Orycteropus afer.*	The aardvark.
Odd-toed ungulates	
Family *Equidae:* All species except *Equus asinus* and *Equus caballus.*	Asses, horses and zebras. The donkey and domestic horse are excepted.
Family *Rhinocerotidae:* All species.	Rhinoceroses.
Family *Tapiridae:* All species.	Tapirs.
Even-toed ungulates	
Family *Antilocapridae:* The species *Antilocapra americana.*	The pronghorn.
Family *Bovidae:* All species except any domestic form of the genera *Bos*, *Bubalus,Capra* and *Ovis.*	Antelopes, bison, buffalo, gazelles, goats and sheep. Domestic cattle, buffalo, goats and sheep are excepted.
Family *Camelidae:* All species of the genus *Camelus.*	Camels.
Family *Cervidae:* All species of the genera *Alces* and *Rangifer*, except any domestic form of the species *Rangifer tarandus.*	The moose or elk and the caribou or reindeer. The domestic reindeer is excepted.
Family *Giraffidae:* All species	The giraffe and the okapi.
Family *Hippopotamidae:* All species.	The hippopotamus and the pygmy hippopotamus.
Family *Suidae*: All species except any domestic form of the species *Sus scrofa*.	Old-world pigs (including the wild boar and the wart hog). The domestic pig is excepted.
Family *Tayassuidae:* All species.	New-world pigs (otherwise known as peccaries).

Hybrids	
Any hybrid of a kind of animal specified (other than by way of exception) in the foregoing provisions of this column where at least one parent is of a kind so specified, and any animal of which at least one parent is such a hybrid. This does not include an excepted hybrid of the Family *Felidae*.	Any mammalian hybrids with at least one parent of a specified kind, and any animal of which at least one parent is such a hybrid. This does not apply to excepted cat hybrids.
<u>BIRDS</u>	
Cassowaries	
Family *Casuariidae:* All species.	Cassowaries.
Ostrich	
Family *Struthionidae:* All species.	The ostrich.
<u>REPTILES</u>	
Crocodilians	
Family *Alligatoridae:* All species.	Alligators and caimans.
Family *Crocodylidae:* All species.	Crocodiles and the false gharial.
Family *Gavialidae:* All species.	The gharial (otherwise known as the gavial).
Lizards and snakes	
Family *Atractaspididae:* All species of the genus *Atractaspis*.	Burrowing asps, also known as mole or burrowing vipers and stiletto snakes.
Family *Colubridae.* All species of the genera *Malpolon* and *Thelotornis*. The species *Dispholidus typus, Rhabdophis subminiatus, Rhabdophis tigrinus, Elapomorphus lemniscatus, Philodryas olfersii, Tachymenis peruviana* and *Xenodon severus*.	Certain rear-fanged venomous snakes, Montpellier snakes and African vine snakes (otherwise known as African twig or bird snakes). The boomslang, the red-necked keelback, the yamakagashi (otherwise known as the Japanese tiger-snake), the Argentine black-headed snake, the South American green racer, the Peruvian racer and the Amazon false viper.
Family *Elapidae:* All species.	Certain front-fanged venomous snakes including cobras, coral snakes, kraits, mambas, whipsnakes and all Australian poisonous snakes (including the death adders).
Family *Hydrophiidae:* All species.	Sea snakes.
Family *Helodermatidae:* All species.	The gila monster and the (Mexican) beaded lizard.
Family *Viperidae:* All species.	Certain front-fanged venomous snakes (including adders, the barba amarilla, the bushmaster, the fer-de-lance, moccasins, rattlesnakes and vipers).

INVERTEBRATES	
Spiders	
Family *Ctenidae:* The genus *Phoneutria.*	Wandering spiders.
Family *Hexathelidae:* The genus *Atrax.*	The Sydney funnel-web spider and its close relatives.
Family *Sicariidae:* The genus *Loxosceles.*	Brown recluse spiders (otherwise known as violin spiders).
Family *Theridiidae:* The genus *Latrodectus.*	The widow spiders and close relatives.
Scorpions	
Family *Buthidae:* All species.	Buthid scorpions.
Family *Hemioscorpiidae:* The species *Hemiscorpius lepturus.*	Middle-Eastern thin-tailed scorpion.