

EXPLANATORY NOTES

Welfare of Dogs (Scotland) Act 2025 (asp 6)

£8.90

These notes relate to the Welfare of Dogs (Scotland) Act 2025 (asp 6)
which received Royal Assent on 19 March 2025

WELFARE OF DOGS (SCOTLAND) ACT 2025

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Parliament's Non-Government Bills Unit on behalf of Christine Grahame MSP, the member who introduced the Bill for this Act in the Parliament, in order to assist the reader of the Welfare of Dogs (Scotland) Act. They do not form part of the Act and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation, none is given.

THE ACT

3. The Act requires the Scottish Ministers to make a new code of practice that should be followed by any person who is considering acquiring a dog, and by any person who is considering transferring a dog to someone else. The Act also requires Scottish Ministers to take reasonable steps to ensure public awareness and understanding of the code of practice and its content.

SUMMARY OF AND BACKGROUND TO THE ACT

4. The Act consists of 9 sections arranged in two Parts. Part 1 requires the Scottish Ministers to make a code of practice, setting out good practice in the acquiring or transferring of puppies and dogs; and Part 2 consists of general provisions.

5. The main animal welfare legislation in Scotland is the Animal Health and Welfare (Scotland) Act 2006. The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 replaced previous legislation covering pet sales and dog breeding. They provide for the licensing of persons who in Scotland carry on activities of breeding dogs, cats or rabbits, selling or rehoming animals as pets or operating animal welfare establishments. The regulations lowered the threshold of the number of litters that trigger the need to become licensed from five to three. The scope was extended beyond the sale of puppies to apply when puppies are sold "or otherwise supplied."

COMMENTARY ON SECTIONS

Part 1 – Promotion of good practice

Section 1 - Ministers to make code of practice

6. Section 1 requires the Scottish Ministers to make and publish a code of practice setting out good practice that both a person considering acquiring a dog ("prospective acquirer") and person who is transferring a dog ("prospective supplier") should follow. In making the code of practice, the Scottish Ministers must have regard to the matters set out in sections 2 and 3. The code may give effect to those sections and any other matters that are considered appropriate by the Scottish Ministers, and must give effect to the material in section 4 of the Act. Ministers must consult representatives of suppliers and acquirers of dogs as well as other people they consider appropriate, and that consultation may take place before section 1 comes into force. The code must have taken effect within twelve months of the Bill receiving Royal Assent. The Scottish Ministers may by regulations modify that date and those regulations are subject to the negative procedure.

7. The definition of "transferring" a dog includes selling, giving away, exchanging, bartering or arranging for the long term loan or long term fostering of a dog. This is an inclusive definition so any other arrangements which amount to transferring a dog will be caught by the code of practice.

Section 2 - Content of code: in relation to sale or transfer of dog of any age

8. Section 2 sets out a list of matters that a prospective acquirer of a dog of any age should consider before acquiring a dog. These relate to how the dog would fit into the prospective acquirer's lifestyle and home environment and their ability to adequately care and provide for the dog throughout its life. Under section 2(3), the code may also stipulate that, where practical, the acquirer (or their representative) and the prospective supplier should meet in person before agreeing to the transaction.

9. These matters are referred to in a certificate of compliance with the code, which the prospective acquirer is required to complete (see section 4).

Section 3 - Content of code: in relation to sale or transfer of young dog by first owner

10. Section 3 sets out potential content of the code in relation to the transfer of puppies – that is, a dog under the age of 12 months which has only had one owner (being the prospective supplier). This includes the requirement that only dogs aged over 8 weeks should be transferred and that, where practicable, prior to the transfer, the prospective acquirer should see the puppy with its mother unless the puppy needs to be separated from its mother for welfare reasons or the mother is deceased.

11. Under section 3(5), the prospective acquirer should familiarise themselves with the circumstances in which either a breeding licence or registration is required. A licence or registration could be required under regulations made under section 27(1) or (2) of the Animal Health and Welfare (Scotland) Act 2006 ("the 2006 Act"). The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021, which

were made under the 2006 Act lowered the threshold of the number of litters that trigger the need for a breeder to attain a licence from five to three. Essentially an acquirer should check whether the person they are getting a dog from is either a licensed breeder or, at such a time as a register of unlicensed litters is in place, has registered the litter.

12. Under section 3(6), the prospective acquirer is to confirm with the prospective supplier that the dog has been microchipped. Regulation 6 of The Microchipping of Dogs (Scotland) Regulations 2016 (S.S.I. 2016/58) requires every keeper of a dog which is older than 8 weeks to ensure that it is microchipped. This requirement would therefore be consistent with section 3(2).

Section 4 – Content of code: certificate

13. Section 4 requires the prospective acquirer to complete and sign a certificate before acquiring a dog of any age. The form of the certificate will be set out in the code, and its content is specified in subsection (4).

14. Filling out the certificate involves the acquirer confirming that they have considered the matters set out in the code of practice. If applicable, the prospective acquirer should also confirm that they have complied with the requirements in section 3(3) and 3(5). Where applicable, the acquirer must also seek to ensure the dog is at least 8 weeks old through discussion with the supplier; the prospective supplier is also required to confirm this. The prospective supplier should also sign the certificate and both supplier and acquirer must provide their full name and address. Once the transaction is complete the certificate should be kept throughout the period of the acquirer's ownership of the dog.

15. Subsection (6) means that under the code of practice, the acquirer is to show the certificate to a person who is exercising a relevant power under schedule 1 of the 2006 Act, if the acquirer is a qualifying person and the person exercising the relevant power reasonably requires to see it.

16. Schedule 1 deals with the investigation of potential animal welfare offences, and grants various powers to inspectors and constables. Therefore, this section will provide a link between the code of practice and the 2006 Act by expressly requiring the certificate to be shown to an inspector or constable exercising those powers. A "qualifying person" is an occupier of premises in relation to which a power is being exercised, a person who is responsible for animals at the premises, or a person who is under their direction or control. For example, if a constable exercised a power to enter premises where there were reasonable grounds for believing that dogs were being caused unnecessary suffering, the constable could ask the person responsible for the dogs to produce the certificate.

17. This requirement in the code of practice does not in itself create a criminal offence. However, paragraph 14 of schedule 1 of the 2006 Act does create offences of obstruction which could be relevant to a contravention of this provision. See also section 6 of the Act which sets out the effect of a failure to comply with the code.

18. The Scottish Ministers may add additional content to the certificate.

Section 5 – Revision of code

19. The code may be revised from time to time. Other than the timescale, the requirements for the preparation of the first code of practice also apply to the preparation of any revised code. A revised code will specify on which day it will come into effect. The revised code must be published by Scottish Ministers.

Section 6 – Effect of code

20. Section 6 sets out the status of the code of practice in law. Failure by a person to comply with the code will not in itself make a person liable to civil or criminal proceedings. However, if a person is prosecuted for a "relevant offence", evidence that the person failed to comply with the code may be relied on as tending to establish liability (that is, may be treated as evidence that the person committed the offence). Similarly, evidence that the person complied with the code may be relied on as tending to negative liability (that is, may be treated as evidence that the person did not commit the offence).

21. For the purposes of section 6, "relevant offence" is defined to include offences under Part 2 (animal welfare) of the 2006 Act (which include offences of causing unnecessary suffering, mutilation, cruel operations, administering poisons, organising animal fights and failing to ensure an animal's welfare). It also includes any offences set out in regulations made under section 26 or 27 of the 2006 Act – namely, regulations to secure the welfare of animals for which a person is responsible, and regulations for the licensing etc of activities involving animals.

Section 7 – Public awareness and understanding of the code

22. The Scottish Ministers are required to take reasonable steps to ensure that the public are both aware of, and understand, the contents of the code and the requirements on them under it. In particular, the Scottish Ministers must take reasonable steps to ensure awareness and understanding of the code among school pupils.

23. Before determining what steps to take to ensure public awareness and understanding, the Scottish Ministers must consult organisations with an interest in the welfare of dogs and consider how they could contribute to any steps to be taken.

Part 2 – General provisions

Section 8 - Commencement

24. Section 8 provides that the Act will come into force at the end of the period of 2 months beginning with the day of Royal Assent.

Section 9 – Short Title

25. The short title of the Act is the Welfare of Dogs (Scotland) Act 2025.

PARLIAMENTARY HISTORY

26. The following table sets out, for each Stage of the proceedings in the Scottish Parliament on the Bill for this Act, the dates on which the proceedings at that Stage took place, and references to the Official Report of those proceedings. It also shows the dates on which Committee reports and other papers relating to the Bill were published, and gives references to those reports and other papers.

PROCEEDINGS AND REPORTS	**REFERENCE**
BEFORE INTRODUCTION	
Draft proposal – lodged 10 February 2022 Final proposal – lodged 28 April 2022	Proposed Welfare of Dogs (Scotland) Bill
INTRODUCTION	
Bill (as introduced) – 19 June 2023	SP Bill 32, Session 6 (2023)
SPICe briefing on Bill (as introduced) – published 31 August 2023	SPICe briefing SB 23-28
STAGE 1	
(a) Lead committee – Rural Affairs and Islands Committee	
23rd Meeting, 2023, 20 September 2023	Columns 2 - 34
26th Meeting, 2023, 25 October 2023	Columns 2 - 30
30th Meeting, 2023, 22 November 2023	Columns 14 - 47
Stage 1 report – published 5 March 2024	4th Report (SP 539), 2024 (Session 6)
(b) Delegated Powers and Law Reform Committee	
Report – published 2 November 2023	65th Report (SP 462), 2023 (Session 6)
(c) Consideration by the Parliament	
Stage 1 debate – 9 May 2024	Columns 69 - 108
STAGE 2	
Rural Affairs and Islands Committee	
Stage 2 proceedings – 18 September 2024	Columns 29 -76
Bill (as amended at Stage 2) – 18 September 2024	SP Bill 32A, Session 6 (year)
STAGE 3	
Consideration by the Parliament	
Stage 3 proceedings – 23 January 2025	Columns 80 - 139
Bill (as passed) – 24 January 2025	SP Bill 32B, Session 6 (2025)
ROYAL ASSENT	
19 March 2025	Welfare of Dogs (Scotland) Act 2025 (asp 6)

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E-mail: customer.services@tso.co.uk
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