

BREEDER LICENSING

If you breed Korats & Thais (and possibly other breeds as well) you may have been waiting to see whether changes made to the Animal Welfare Act this April will affect you. There have been two main issues:

- A) Will all cat breeders require a licence from their local authority to continue breeding from this October, or will there be a distinction between hobby breeding and commercial breeding?
- B) Will all who breed cats be covered by specific terms and conditions (as are dog breeders) that restrict, for example, how frequently a female can be bred from, or the number of litters in total per household for any one year?

A bill introduced into the House of Lords by Lord Black (of Cats Protection) aimed to bring cat breeding into line with dog breeding to a certain extent. It was unsuccessful and these terms were never introduced into the Animal Welfare Act. There are **NO REGULATIONS SPECIFIC TO THE BREEDING OF CATS**, so please ignore any website information that says anything different. It will be old news.

So, what about licensing? That all depends on whether you are breeding commercially. The crunch is defined as a business test. It is acknowledged that ultimately a local authority inspector will have to make a judgment but in the in/out scope criteria given, and their accompanying guidelines, (I've pasted a copy of these) I would think a majority of us would fall well outside the need to apply for licence. I particularly like the reference to showing and belonging to a breed club being indicators of a hobby breeder.

GCCF advice is that if in doubt you should contact your local authority and discuss this with them. Also, the fact of not needing a licence is a separate issue to any HMRC investigation into whether you make a profit from breeding and selling kittens and should pay tax on this. Keep careful accounts and records of your financial and other cat activities. Then if any inspector of any kind ever comes to call you have evidence to produce and do not need to panic.

What is in and out of scope: Selling animals as pets

Business Test

3. The regulations specify two example business tests to be considered when determining whether an activity is considered commercial, and thus within scope. They are not the exclusive factors to be considered but are examples and other factors, such as those listed in the nine badges of trade set out by HMRC, are also relevant. The regulations include the following on this issue:

4. The circumstances which a local authority must take into account in determining whether an activity is being carried on in the course of a business for the purposes of this Schedule include, for example, whether the operator—

- (a) makes any sale by, or otherwise carries on, the activity with a view to making a profit, or
- (b) earns any commission or fee from the activity.

5. This guidance is intended to assist inspectors in determining whether or not an activity may be subject to the regulations noting that ultimately there will be an element of judgement required.

6. Set out below are examples of the type of activity that should or should not be considered within the scope of the regulations and the indicators that should be considered when deciding whether a licence is required.

7. Local authority inspectors should take account of all elements of the advice below and weigh them against each other before reaching a decision as to whether an activity falls within scope of the regulations.

In scope criteria

Activities that fulfil one or more of the following criteria are subject to licensing:

1. The import, distribution and sale of animals by a business.
2. Businesses registered with Companies House.
3. Businesses or individuals operating from domestic premises for commercial purposes (it should be noted that many may not be listed with Companies House).
4. Premises open to members of the public or to other businesses where animals are available for purchase.

Guideline indicators of running a business of selling animals as pets

The following may assist consideration of the criteria listed above:

- ✚ The import, distribution and sale of animals by means of a fixed fee.
- ✚ The purchase of animals with the express intent to sell them on.
- ✚ Where animals are bought and then re-advertised for sale or sold within a short period of time.

- ✦ The number, frequency and/or volume of sales - systematic and repeated transactions using the same means of advertising are likely to indicate a commercial activity.
- ✦ High volumes of animals sold or advertised for sale or high number of litters or progeny could indicate a business.
- ✦ Low volumes of animals sold or advertised could indicate a business where high sales prices or large profit margins are involved.
- ✦ High range and variability in the animals traded. A wide variety of species or taxa being traded could indicate the commercial nature of the activity.
- ✦ High numbers of advertisements of animals for sale, including on classified websites, could indicate commercial behaviour, even where there is no actual sale taking place via the internet. This could be high numbers of advertisements at any one time or over a short period of time, and/or regularly.
- ✦ Advertising through a variety of sites, forums or media could indicate a commercial activity.

Out of scope criteria

Activities that fulfil one or more of the following criteria are not subject to licensing:

1. The infrequent sale of a small number of surplus offspring/excess stock by a private individual who breeds animals as a hobby, for pleasure, exhibition for prize, or for education, study or scientific advancement. For low value species that may produce large numbers of excess stock, consideration should be given to the value of the stock and the likelihood that the seller is making a profit.
2. Organised events where people meet to sell surplus animals they have bred, or animals that are surplus to their requirements, whether or not this is open to the public. Selling pet animals as a business from a market or stall is prohibited under Section 2 of the Pet Animals Act 1951.
3. Aquacultural Production Businesses that are authorised under regulation 5(1) of the Aquatic Guideline indicators of “out of scope” activities

The following may assist consideration of the criteria listed above:

- ✦ The number, frequency and/or volume of sales - irregular transactions, low and/or irregular numbers of adverts/sales or low numbers/values of animals sold are likely to indicate the activity is not commercial in its nature.
- ✦ Where an individual can demonstrate the activity is undertaken as a hobby or for education or scientific advancement, and that they are only selling surplus stock, without making a profit. This could be demonstrated by producing evidence such as:
 - a. Reports or studies prepared by the individual in relation to the species kept, including self-published, published for scientific journals, published in the pet trade or hobby media, or demonstrable contributions to conservation projects.
 - b. Competition entry forms for the animals kept by the individual.**
 - c. Registered membership of a club or society relevant to the animals kept by the individual.**
- ✦ The Government announced in Budget 2016 a new allowance of £1,000 for trading income from April 2017. Anyone falling under this threshold would not need to be considered in the context of determining whether they are a business.

For more information see the DEFRA website. From page 39 you will find the conditions required for keeping cats if you are trading commercially and they are stringent. There is just a brief reference to domestic situations for mothers and kittens.

[http://petcare.org.uk/images/Images 2018/AAL/Guidance notes for selling animals as pets.pdf](http://petcare.org.uk/images/Images%202018/AAL/Guidance%20notes%20for%20selling%20animals%20as%20pets.pdf)

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