

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4577 of 23 May, 2019

B. 21/19

BILL

FOR

AN ACT to amend the Pet Animals (Sales) Act 2005

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Pet Animals (Sales) (Amendment) Act 2019.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of the Pet Animals (Sales) Act 2005.

3.(1) The Pet Animals (Sales) Act 2005 is amended in accordance with this section.

(2) In section 2-

(a) substitute the following for the definition of “animal”–

““animal” means any domestic or captive member of the animal kingdom;”;

(b) after the definition of “animal” insert-

““Government Veterinary Practitioner” means a qualified veterinary practitioner appointed for the purposes of this Act by the Minister;”;

(c) in the definition of “Minister”, for “environmental matters” substitute “the Environment”;

(d) delete the definition of “vertebrate animal”; and

(e) delete subsection (3) in its entirety.

(3) In section 3-

(a) in subsection (2)(c), after “subject to any conditions specified in the licence” insert “as may be imposed in accordance with this Act”;

(b) in subsection (3) –

(i) in paragraph (c), for “animals, which are mammals,” substitute “mammals”;

(ii) in paragraph (g), after “;” insert “ and”;

(iii) delete the following-

“and shall specify such conditions in the licence, if granted by him, as appear to the licensing officer necessary or expedient in the particular case for ensuring all or any of the objects specified in paragraphs (a) to (g) above.”; and

(iv) after paragraph (g), insert-

“(h) in the case of cats and dogs under 4 months of age, only animals bred by approved breeders will be sold”.

(c) after subsection (3), insert-

“(3A) The licensing officer shall specify in the licence, if granted by him-

(a) all those conditions listed in regulations enacted under section 11(e)(i) of this Act;

(b) all those conditions listed in regulations enacted under section 11(e)(ii) of this Act which are applicable to the species of animal being sold by the licensee pet shop;

(c) all those conditions listed in regulations enacted under section 11(e)(iii) of this Act; and

(d) any other requirement or condition as appear to the licensing officer necessary or expedient in the particular case for ensuring all or any of the objects specified in section 3(a) to (h) above.

(3B) For the purposes of subsection (3)(h), an approved breeder is a person who breeds cats or dogs in the course of business and who, on application by a pet shop or a breeder, the licensing officer in consultation with the Government Veterinary Practitioner, approves as being compliant with the following conditions–

- (a) the number of animals kept at any time does not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the breeding is carried on;
- (b) sufficient numbers of people are available to provide a level of care that ensures that the welfare needs of all the animals are met;
- (c) all areas, equipment and appliances to which the animals have access present minimal risks of injury, illness and escape and are constructed in materials that are robust, safe and durable, in a good state of repair and well maintained;
- (d) animals are kept at all times in an environment suitable to their species and condition (including health status and age) with respect to their behavioural needs, situation, space, air quality, cleanliness and temperature, noise and light, and ventilation;
- (e) the animals are transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease;
- (f) the animals are provided with a suitable diet in terms of quality, quantity and frequency;
- (g) feed and drinking water provided to the animals is unspoilt and free from contamination;
- (h) opportunities to exercise which benefit the animals' physical and mental health are provided, unless advice from a veterinarian suggests otherwise;
- (i) all people responsible for the care of the animals are competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease;
- (j) sick or injured animals receive prompt attention from a veterinarian and the advice of that veterinarian is followed;
- (k) each dog has access to a sleeping area which is free from draughts, which is separate from any exercise area, and which provides sufficient space for a dog to stand on its hind legs, lie down fully stretched out, wag its tail, walk and turn around without touching another dog or the walls of the sleeping area;
- (l) no puppy or kitten under 8 weeks is transported without its biological mother except in an emergency or if a veterinarian agrees for health or welfare reasons that it may be so transported; and

- (m) no animal is kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.
 - (3C) An approval granted by the licensing officer under subsection (3B) shall be valid for the period of one year.
 - (3D) The licencing officer, in considering an application for approval under subsection (3B) may request and rely upon such form of evidence as may be considered appropriate, including, without limitation, memberships of professional associations held by the breeder.”.
- (4) In section 6–
- (a) in the section title, for “twelve” substitute “sixteen”;
 - (b) renumber section 6 as section 6(1);
 - (c) in subsection (1), for “twelve” substitute “sixteen”;
 - (d) after subsection (1), insert–

“(2) For the purposes of subsection (1), selling an animal includes transferring, or agreeing to transfer, ownership of the animal in consideration of entry by the transferee into another transaction.
- (3) Subject to subsections (4) to (6), person commits an offence if–
- (a) he enters into an arrangement with a person whom he has reasonable cause to believe to be under the age of sixteen years; and
 - (b) the arrangement is one under which that person has the chance to win an animal as a prize.
- (4) A person does not commit an offence under subsection (3) if–
- (a) he enters into the arrangement in the presence of the person with whom the arrangement is made; and
 - (b) he has reasonable cause to believe that the person with whom the arrangement is made is accompanied by a person who is not under the age of 16 years.
- (5) A person does not commit an offence under subsection (3) if–

- (a) he enters into the arrangement otherwise than in the presence of the person with whom the arrangement is made; and
- (b) he has reasonable cause to believe that a person who has actual care and control of the person with whom the arrangement is made has consented to the arrangement.

(6) A person does not commit an offence under subsection (3) if he enters into the arrangement in a family context.”.

(5) In section 9-

- (a) for “the Stipendiary Magistrate” substitute “a Magistrate”; and
- (b) delete subsections (2) and (3) in their entirety.

(6) In section 10-

- (a) in subsection (3)-
 - (i) after “Where a person is convicted of any offence under this Act,” insert “the licensing officer, the Minister or”; and
 - (ii) for “as the court thinks” with “as they think”.
- (b) substitute the following for subsection (4)-

“(4) Where the licensing officer, the Minister or the court which has ordered the cancellation of a person’s licence, or his disqualification under subsection (3), they may, if they think fit, suspend the operation of the order pending an appeal.”.

(7) In section 11 –

- (a) in paragraph (d), for “effect.” substitute “effect; and”; and
- (b) insert the following after paragraph (d) –
 - “(e) providing for the conditions to be imposed by the licensing officer in pet shops licenses, and such regulations shall, without limitation, include provision for–
 - (i) conditions of a general nature applicable to all pet shops, regardless of the species of animal to be sold;
 - (ii) conditions specific to the sale of certain species of animal; and

- (ii) conditions prescribing a minimum age for the sale of certain species of animal.”.

EXPLANATORY MEMORANDUM

This Act enhances the regulation of pet shops, by requiring the licensing officer to include certain types of conditions in licences granted to pet shops, and by providing for regulations to be enacted to prescribe licence conditions that may be imposed on pet shops. The Act also prescribes, as a condition of obtaining a licence, that pet shops may only purchase from approved breeders, and establishes a mechanism whereby breeders are approved by the licensing officer.

The age at which a pet can be sold to a child has been raised from twelve to sixteen, and an additional offence of entering into an arrangement with a person under sixteen where that person has the chance to win a pet as a prize. The enforcement powers under the Act have been increased, by removing the restriction on the ability to obtain a warrant to inspect private dwellings, as well as by permitting a licence to be removed by the licencing officer and the Minister, as well as a court, in cases where a person is convicted of an offence under the Act.

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