
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 174

**The Zoo Licensing Act 1981
Amendment (Scotland) Regulations 2003**

Amendment of the Zoo Licensing Act 1981

21. After section 16 (power to alter licences) insert—

“Enforcement of licence conditions

16A.—(1) Subsection (2) applies where the local authority, after giving the licence holder an opportunity to be heard, are not satisfied that a condition attached to a licence granted by them under this Act is met in relation to the zoo or a section of it.

(2) Unless subsection (3) applies, the authority shall make a direction specifying—

- (a) the licence condition which they are not satisfied is met;
- (b) whether they are not satisfied that that condition is met in relation to—
 - (i) the zoo; or
 - (ii) a section of the zoo, and if so, which section;

(c) steps to be taken by the licence holder to ensure that that condition is met in relation to the zoo (or, if a section of the zoo is specified under paragraph (b)(ii), in relation to that section) within a period specified in the direction, which may not exceed two years from the date of the direction; and

(d) whether the zoo or a section of it is required to be closed to the public during that period or any part of it specified in the direction.

(3) This subsection applies if the authority have power to make a zoo closure direction under section 16B(5) and they exercise that power.

(4) The authority may, after giving the licence holder an opportunity to be heard, make a direction under this subsection varying a direction under subsection (2) (including such a direction as varied by a direction under this subsection).

(5) A direction under subsection (4) may increase the period specified in the direction under subsection (2)(c) or (d) but the period as increased must not exceed two years beginning with the date of the direction under subsection (2).

(6) A direction under subsection (2) (including such a direction as varied by a direction under subsection (4)) may be revoked by a further direction of the local authority.

Zoo closure direction

16B.—(1) The local authority shall make a zoo closure direction in respect of a zoo licensed under this Act where—

- (a) they have made a direction under section 16A(2) in respect of the zoo;
- (b) the period specified in the direction by virtue of section 16A(2)(c), including such a direction as varied under section 16A(4), has expired; and

- (c) they are satisfied, after giving the licence holder an opportunity to be heard, that a condition—
 - (i) specified in that direction and in respect of which the zoo was specified under section 16A(2)(b)(i), and
 - (ii) which requires any conservation measure referred to in section 1A to be implemented at the zoo,is not met in relation to the zoo.
- (2) The authority shall make a zoo closure direction in respect of a zoo licensed under this Act where they are satisfied, after reasonable enquiries have been made, that the operator cannot be found.
- (3) The authority shall make a zoo closure direction in respect of a zoo licensed under this Act where, after giving the licence holder an opportunity to be heard—
 - (a) they are satisfied that members of the public have had access to it on fewer than seven days in the period of 12 months ending on the date on which the authority determine that they are so satisfied; and
 - (b) it does not appear to them that it is the licence holder’s intention that members of the public will have access to it on seven days or more during any future period of 12 months.
- (4) The authority may make a zoo closure direction in respect of a zoo licensed under this Act where—
 - (a) they have made a direction under section 16A(2) in respect of a zoo;
 - (b) the period specified in that direction by virtue of section 16A(2)(c), including such a direction as varied under section 16A(4), has expired; and
 - (c) they are satisfied, after giving the licence holder an opportunity to be heard, that a condition specified in that direction, other than one which requires any conservation measure referred to in section 1A to be implemented at the zoo, is not met in relation to—
 - (i) if the zoo was specified in that direction, the zoo or any section of it; or
 - (ii) if a section of the zoo was specified in that direction, that section, any part of that section, any larger section which includes that section, or the whole zoo.
- (5) The authority may, after giving the licence holder an opportunity to be heard, make a zoo closure direction in respect of a zoo licensed under this Act if—
 - (a) any reasonable requirements relating to the premises or conduct of the zoo notified by them to the licence holder in consequence of the report of any inspection under this Act are not complied with within such time as is reasonable in the circumstances;
 - (b) they are satisfied that the zoo has been conducted in a disorderly manner or so as to cause a nuisance;
 - (c) the licence holder (or where the licence holder is a body corporate, the body or any director, manager or secretary or similar officer of the body) is convicted of any offence mentioned in section 4(4); or
 - (d) any person who, to the knowledge of the licence holder, has been so convicted is employed as a keeper in the zoo.
- (6) But the authority may not make a zoo closure direction under subsection (5) if a direction under section 16A(2) is in force in respect of the zoo and—

- (a) when that direction was made there were grounds upon which the authority could have made a zoo closure direction under subsection (5) in respect of the zoo, but they chose not to do so; and
 - (b) the grounds upon which they would make a zoo closure direction under subsection (5) are the same as any of the grounds upon which they could have made a zoo closure direction when they made the direction under section 16A(2) instead.
- (7) No zoo closure direction may be made under subsection (5)(a) or (b) on grounds involving the care or treatment of animals unless the authority have first consulted such persons on the list as the Scottish Ministers may nominate for the purposes of this subsection.
- (8) Where the authority make a zoo closure direction in respect of a zoo under this section, the zoo's licence is revoked from the date on which the direction has effect.

Zoo closure direction for zoos without licences

16C.—(1) This section applies where the local authority are of the view that a zoo is being operated without a licence in contravention of the Act.

(2) If the authority are satisfied, after reasonable enquiries have been made, that the operator of a zoo to which this section applies cannot be found, they shall make a zoo closure direction in respect of the zoo.

(3) Otherwise, unless the authority inform the Scottish Ministers that in their opinion a direction should be made under section 14(1) and they make a direction under section 14(1)

(a) the authority shall give to the operator of the zoo at least 35 days' notice in writing of—

- (a) their intention to make a zoo closure direction in respect of the zoo; and
- (b) the operator's opportunity to be heard in accordance with subsection (4)(a).

(4) Where notice has been given under subsection (3)—

- (a) the authority shall give the operator of the zoo an opportunity to be heard; and
- (b) after the period of notice has expired, and after having given the operator an opportunity to be heard, the authority shall make a zoo closure direction in respect of the zoo unless—

- (i) it appears to the authority that the view they reached as mentioned in subsection (1) was incorrect; or
- (ii) notice under section 2(1) of intention to make an application for a licence for the zoo has been given to the authority before the expiration of the period of notice given under subsection (3).

(5) Where, before the expiration of the period referred to in subsection (3), notice is given to the authority under section 2(1) of intention to make an application for a licence for the zoo, but—

- (a) an application for a licence for the zoo is not made by the end of a period of three months beginning on the date on which the notice was given under section 2(1); or
- (b) the application for a licence for that zoo is refused and—

- (i) no appeal is brought against the refusal within the time mentioned in section 18(2); or
- (ii) if an appeal is brought against the refusal within the time mentioned in section 18(2), it is abandoned or the court confirms the decision to refuse the application,

the authority shall make a zoo closure direction in respect of the zoo.

Application of section 16E

16D.—(1) Section 16E applies to—

- (a) a zoo in respect of which a zoo closure direction has been made, from the date on which the direction has effect (in accordance with section 18(10));
- (b) a zoo whose licence has expired or been surrendered, from the date of its expiration or surrender (as the case may be).

(2) This Act shall cease to apply to a zoo when the local authority have notified the operator, or, where the operator cannot be found, any person appearing to them to be responsible for the zoo, in writing that they are satisfied that—

- (a) all animals which are to be disposed of pursuant to section 16E have been disposed of;
- (b) satisfactory arrangements for the care of any animals kept in the zoo which are not to be disposed of pursuant to section 16E are in effect; and
- (c) there are reasonable grounds for believing that satisfactory arrangements will continue to be maintained for such animals.

(3) Section 16E applies to a section of a zoo which is closed permanently to the public by virtue of alterations to the zoo's licence under section 16(1B), from the date on which those alterations have effect (in accordance with section 18(7A)).

(4) If a section of a zoo which was closed permanently to the public by virtue of alterations to the zoo's licence under section 16(1B) reopens pursuant to further alterations to the licence, section 16E shall cease to apply to that section.

Welfare of animals following closure of zoo

16E.—(1) Subsections (2) to (7) apply to a zoo to which this section applies unless the local authority are satisfied, after reasonable enquiries have been made, that the operator of the zoo cannot be found.

(2) As soon as reasonably practicable after the date from which this section applies, the operator of the zoo shall give to the authority a plan of the arrangements the operator proposes to make in relation to all the animals kept in the zoo—

- (a) for their future care; or
- (b) for their disposal and for their care until they are disposed of.

(3) The operator of the zoo shall supply the authority with any information they request about the care or disposal of animals kept in the zoo.

(4) Where the authority notify the operator of the zoo that they approve a plan prepared under subsection (2), the operator shall implement it under the supervision of the authority.

(5) Except with the agreement of the authority, the operator of the zoo shall not—

- (a) dispose of any animal kept in the zoo before a plan prepared under subsection (2) has been approved by the authority; or
- (b) dispose of any animal kept in the zoo other than in accordance with a plan so approved.

(6) Where—

- (a) the authority are not satisfied with a plan prepared under subsection (2);

- (b) the authority are not satisfied with the way in which such a plan is being implemented;
- (c) the operator of the zoo has not prepared such a plan within a reasonable period after the date from which this section applies; or
- (d) the authority consider that urgent steps need to be taken by the operator to safeguard the welfare of animals kept in the zoo,

the authority may, after giving the operator an opportunity to be heard, make a direction in such terms as they see fit as to the care of animals kept in the zoo or for their disposal and for their care until they are disposed of.

(7) Where—

- (a) the zoo operator has not complied with a direction under subsection (6) to the satisfaction of the authority; or
- (b) the authority consider that urgent steps need to be taken by them to safeguard the welfare of animals kept in the zoo,

the authority shall, after giving the operator an opportunity to be heard, make arrangements in relation to all the animals kept in the zoo for their future care, or for their disposal and for their care until they are disposed of.

(8) Where the authority are satisfied, after reasonable enquiries have been made, that the operator of the zoo cannot be found, they shall make arrangements for the future care of the animals kept in the zoo, or for their disposal and for their care until they are disposed of.

(9) For the purpose of giving effect to arrangements under subsection (7) or (8) the authority may—

- (a) care for any animal on the premises of the zoo; or
- (b) remove any animal found on the premises of the zoo and either retain it in the authority's possession or dispose of it.

(10) Arrangements for the care or disposal of animals under this section shall not be prejudicial to the interests of the protection of wild animals and the conservation of biodiversity.

(11) The authority may make a direction varying or revoking a direction under subsection (6) (including such a direction as varied by a direction under this subsection), but unless they are satisfied, after reasonable enquiries have been made, that the operator cannot be found, they shall not do so without first giving him an opportunity to be heard.

(12) Where this section applies by virtue of section 16D(3), references in this section to a zoo shall be read as references to that section of the zoo which is closed permanently to the public.

Power of authority to dispose of animals

16F.—(1) This section applies where a local authority are required to make arrangements under section 16E(7) or (8).

(2) The authority may sell or otherwise dispose of any animal in relation to which arrangements are required to be made if—

- (a) after making reasonable inquiries they are satisfied that the animal is owned by the operator of the zoo;
- (b) after making reasonable inquiries they are unable to identify or unable to find the animal's owner;
- (c) they have obtained the consent of the owner of the animal;

- (d) the owner of the animal has been asked for his consent before a date specified in the request but that date has passed and the authority have not received it and the owner has not arranged to take possession of the animal or arranged for such possession to be taken by another person; or
 - (e) the owner has arranged to take possession of the animal or for its possession to be taken by another person, but the date for implementation of the arrangements has passed and they remain unimplemented.
- (3) Where an animal is sold or given away under subsection (2) above, any person to whom the animal is sold or given shall have a good title to it.
- (4) Subsections (5) to (9) apply when the authority have sold all the animals which are to be sold under subsection (2).
- (5) Subject to subsection (8), the authority shall pay to the operator of the zoo a sum equal to the total proceeds of the sales of animals falling within subsection (6), less any part of the charge which the authority are entitled to make under section 15(2A)(d) which has not been paid.
- (6) An animal falls within this subsection if the authority are satisfied that it was owned by the operator of the zoo immediately before its sale under subsection (2) (whether or not they were so satisfied when they exercised their power of sale under that subsection).
- (7) Where an animal is not owned by the operator and the authority have identified a person whom they are satisfied was the owner of an animal immediately before its sale under subsection (2), they shall (subject to subsection (8)) pay to that person a sum equal to the proceeds of the sale of that animal, less the costs incurred by them in connection with the sale and in caring for the animal before the sale.
- (8) If the person to whom the authority is required to make a payment under subsection (5) or (7) cannot be found before the end of the period of four months beginning with the date of the sale of the last animal which is to be sold under subsection (2), the proceeds of sale shall vest in the authority.
- (9) Any remaining proceeds of the sales under subsection (2) shall vest in the authority.
- (10) An authority must make any payment they are required to make under subsection (5) or (7) before the end of the period of four months beginning with the date of the sale of the last animal which is to be sold under subsection (2), but they shall not make such payment before the end of the period of one month beginning with the date of that sale.
- (11) Nothing in this section shall prevent an authority from making arrangements, on the advice of a veterinary surgeon or practitioner, for an animal to be put down without delay where it is necessary or expedient to do so in the interests of its welfare.
- (12) References in this section, other than at subsection (2)(a), to an animal owned by the operator of the zoo include an animal which is owned by the operator jointly with any other person.

Powers of entry

16G.—(1) For the purpose of giving effect to arrangements under section 16E(7) or (8), a person duly authorised by the local authority for the purposes of this subsection may, on producing his authority if so required, enter the premises of the zoo for the purposes of—

- (a) inspecting any animal found there to which the arrangements relate;
- (b) inspecting the accommodation of any such animal;
- (c) caring for any such animal;
- (d) removing any such animal; or

- (e) removing any records of any such animal.
- (2) Subsection (1) shall not authorise entry into any part of the premises of the zoo which is used as a private dwelling.
- (3) If a sheriff is satisfied by evidence on oath that—
 - (a) it is necessary or desirable for the purpose of giving effect to arrangements under section 16E(7) or (8) for a person duly authorised by the authority for the purposes of this subsection to enter the premises of the zoo for the purposes mentioned in subsection (1); and
 - (b) either—
 - (i) any part of the premises to which admission for any of those purposes is sought is used as a private dwelling; or
 - (ii) admission to the premises or any part of the premises for any of those purposes has been refused,that sheriff may grant a warrant authorising that person to enter the premises, or (as the case may be) the part of the premises used as a private dwelling or to which admission has been refused for any or all of those purposes with or without constables and any other persons who may be necessary, and if need be by reasonable force.
- (4) A warrant granted under subsection (3) shall also specify—
 - (a) the length of time for which it is valid; and
 - (b) the times at which entry may be effected,and may contain such restrictions as the sheriff thinks fit.
- (5) A person duly authorised for the purposes of subsection (3) shall, if so required, produce his authority and warrant before entering the premises of the zoo or part of the premises to which the warrant relates (as the case may be).”